

HOUSE BILL No. 2737

By Committee on Corrections and Juvenile Justice

2-10

1 AN ACT concerning juvenile offenders; relating to consecutive
2 sentencing; amending K.S.A. 2011 Supp. 38-2369 and repealing the
3 existing section.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 38-2369 is hereby amended to read as
7 follows: 38-2369. (a) For the purpose of committing juvenile offenders to
8 a juvenile correctional facility, the following placements shall be applied
9 by the judge in felony or misdemeanor cases. If used, the court shall
10 establish a specific term of commitment as specified in this subsection,
11 unless the judge conducts a departure hearing and finds substantial and
12 compelling reasons to impose a departure sentence as provided in K.S.A.
13 2011 Supp. 38-2371, and amendments thereto.

14 (1) *Violent Offenders.* (A) The violent offender I is defined as an
15 offender adjudicated as a juvenile offender for an offense which, if
16 committed by an adult, would constitute an off-grid felony. Offenders in
17 this category may be committed to a juvenile correctional facility for a
18 minimum term of 60 months and up to a maximum term of the offender
19 reaching the age of 22 years, six months. The aftercare term for this
20 offender is set at a minimum term of six months and up to a maximum
21 term of the offender reaching the age of 23 years.

22 (B) The violent offender II is defined as an offender adjudicated as a
23 juvenile offender for an offense which, if committed by an adult, would
24 constitute a nondrug level 1, 2 or 3 felony. Offenders in this category may
25 be committed to a juvenile correctional facility for a minimum term of 24
26 months and up to a maximum term of the offender reaching the age 22
27 years, six months. The aftercare term for this offender is set at a minimum
28 term of six months and up to a maximum term of the offender reaching the
29 age of 23 years.

30 (2) *Serious Offenders.* (A) The serious offender I is defined as an
31 offender adjudicated as a juvenile offender for an offense which, if
32 committed by an adult, would constitute a nondrug severity level 4, 5 or 6
33 person felony or a severity level 1 or 2 drug felony. Offenders in this
34 category may be committed to a juvenile correctional facility for a
35 minimum term of 18 months and up to a maximum term of 36 months.
36 The aftercare term for this offender is set at a minimum term of six months

1 and up to a maximum term of 24 months.

2 (B) The serious offender II is defined as an offender adjudicated as a
3 juvenile offender for an offense which, if committed by an adult, would
4 constitute a nondrug severity level 7, 8, 9 or 10 person felony with one
5 prior felony adjudication. Offenders in this category may be committed to
6 a juvenile correctional facility for a minimum term of nine months and up
7 to a maximum term of 18 months. The aftercare term for this offender is
8 set at a minimum term of six months and up to a maximum term of 24
9 months.

10 (3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is
11 defined as an offender adjudicated as a juvenile offender for an offense
12 which, if committed by an adult, would constitute:

13 (i) One present nonperson felony adjudication and two prior felony
14 adjudications; or

15 (ii) one present severity level 3 drug felony adjudication and two
16 prior felony adjudications.

17 Offenders in this category may be committed to a juvenile correctional
18 facility for a minimum term of six months and up to a maximum term of
19 18 months. The aftercare term for this offender is set at a minimum term of
20 six months and up to a maximum term of 12 months.

21 (B) The chronic offender II, escalating felon is defined as an offender
22 adjudicated as a juvenile offender for an offense which, if committed by an
23 adult, would constitute:

24 (i) One present felony adjudication and either two prior misdemeanor
25 adjudications or one prior person or nonperson felony adjudication;

26 (ii) one present felony adjudication and two prior severity level 4
27 drug adjudications;

28 (iii) one present severity level 3 drug felony adjudication and either
29 two prior misdemeanor adjudications or one prior person or nonperson
30 felony adjudication; or

31 (iv) one present severity level 3 drug felony adjudication and two
32 prior severity level 4 drug adjudications.

33 Offenders in this category may be committed to a juvenile correctional
34 facility for a minimum term of six months and up to a maximum term of
35 18 months. The aftercare term for this offender is set at a minimum term of
36 six months and up to a maximum term of 12 months.

37 (C) The chronic offender III, escalating misdemeanant is defined as
38 an offender adjudicated as a juvenile offender for an offense which, if
39 committed by an adult, would constitute:

40 (i) One present misdemeanor adjudication and either two prior
41 misdemeanor adjudications or one prior person or nonperson felony
42 adjudication and two placement failures;

43 (ii) one present misdemeanor adjudication and two prior severity

1 level 4 drug felony adjudications and two placement failures;

2 (iii) one present severity level 4 drug felony adjudication and either
3 two prior misdemeanor adjudications or one prior person or nonperson
4 felony adjudication and two placement failures; or

5 (iv) one present severity level 4 drug felony adjudication and two
6 prior severity level 4 drug felony adjudications and two placement
7 failures.

8 Offenders in this category may be committed to a juvenile correctional
9 facility for a minimum term of three months and up to a maximum term of
10 six months. The aftercare term for this offender is set at a minimum term
11 of three months and up to a maximum term of six months.

12 (4) *Conditional Release Violators*. Upon finding the juvenile violated
13 a requirement or requirements of conditional release, the court may:

14 (A) Subject to the limitations in subsection (a) of K.S.A. 2011 Supp.
15 38-2366, and amendments thereto, commit the offender directly to a
16 juvenile correctional facility for a minimum term of three months and up
17 to a maximum term of six months. The aftercare term for this offender
18 shall be a minimum of two months and a maximum of six months, or the
19 length of the aftercare originally ordered, which ever is longer.

20 (B) Enter one or more of the following orders:

21 (i) Recommend additional conditions be added to those of the
22 existing conditional release.

23 (ii) Order the offender to serve a period of sanctions pursuant to
24 subsection (f) of K.S.A. 2011 Supp. 38-2361, and amendments thereto.

25 (iii) Revoke or restrict the juvenile's driving privileges as described in
26 subsection (c) of K.S.A. 2011 Supp. 38-2361, and amendments thereto.

27 (C) Discharge the offender from the custody of the commissioner,
28 release the commissioner from further responsibilities in the case and enter
29 any other appropriate orders.

30 (b) As used in this section: (1) "Placement failure" means a juvenile
31 offender in the custody of the juvenile justice authority has significantly
32 failed the terms of conditional release or has been placed out-of-home in a
33 community placement accredited by the commissioner and has
34 significantly violated the terms of that placement or violated the terms of
35 probation.

36 (2) "Adjudication" includes out-of-state juvenile adjudications. An
37 out-of-state offense, which if committed by an adult would constitute the
38 commission of a felony or misdemeanor, shall be classified as either a
39 felony or a misdemeanor according to the adjudicating jurisdiction. If an
40 offense which if committed by an adult would constitute the commission
41 of a felony is a felony in another state, it will be deemed a felony in
42 Kansas. The state of Kansas shall classify the offense, which if committed
43 by an adult would constitute the commission of a felony or misdemeanor,

1 as person or nonperson. In designating such offense as person or
2 nonperson, reference to comparable offenses shall be made. If the state of
3 Kansas does not have a comparable offense, the out-of-state adjudication
4 shall be classified as a nonperson offense.

5 (c) All appropriate community placement options shall have been
6 exhausted before a chronic offender III, escalating misdemeanor shall be
7 placed in a juvenile correctional facility. A court finding shall be made
8 acknowledging that appropriate community placement options have been
9 pursued and no such option is appropriate.

10 (d) The commissioner shall work with the community to provide on-
11 going support and incentives for the development of additional community
12 placements to ensure that the chronic offender III, escalating
13 misdemeanor sentencing category is not frequently utilized.

14 (e) *Any juvenile offender committed to a juvenile correctional facility*
15 *who is adjudicated for an offense committed while such juvenile was*
16 *committed to a juvenile correctional facility, may be adjudicated to serve a*
17 *consecutive term of commitment in a juvenile correctional facility.*

18 Sec. 2. K.S.A. 2011 Supp. 38-2369 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.
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