

Substitute for HOUSE BILL No. 2633

By Committee on Corrections and Juvenile Justice

2-26

1 AN ACT concerning children and minors; relating to juvenile offenders;
2 {youth residential centers and services;} risk assessment; revised
3 Kansas juvenile justice code; prosecution as an adult; sentencing; good
4 time credits; amending K.S.A. 2013 Supp. 21-6607, 38-2347, 38-2360,
5 38-2369 and 38-2370 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 {New Section 1. (a) On or before January 15, 2015, the secretary
9 of corrections shall perform the actions required by this section and
10 report on such actions to the house committee on corrections and
11 juvenile justice, the senate committee on federal and state affairs and
12 the joint committee on corrections and juvenile justice oversight.

13 (b) The secretary shall conduct a cost study analysis of all youth
14 residential centers for juvenile offenders under contract to provide
15 services to the department of corrections. The cost study analysis
16 shall:

17 (1) Include detailed analysis of allowable expenses necessary to
18 meet the minimum requirements for: (A) Licensure of a youth
19 residential center by the department of health and environment; (B)
20 service under contracts with the department of corrections; and (C)
21 compliance with the prison rape elimination act, 42 U.S.C. § 15601 et
22 seq.; and

23 (2) identify any cost associated with program or other expenses
24 which add value to the services provided to juvenile offenders by
25 youth residential centers in addition to such minimum requirements.

26 (c) The secretary shall evaluate program needs within youth
27 residential centers for juvenile offenders and compare such needs with
28 program availability. The secretary shall propose modifications to the
29 legislature which align program availability with program needs.

30 (d) The secretary shall develop a fee schedule for youth
31 residential services for juvenile offenders to include daily payment
32 rates necessary for base service and rates for program component
33 additions to such base service.

34 (e) The secretary shall develop a plan for performance-based
35 incentive payment opportunities and a plan for integration of such
36 payment opportunities into the fee schedule developed pursuant to

1 **subsection (d). The secretary shall also develop a plan to measure**
2 **performance and evaluate the effectiveness of juvenile offender service**
3 **providers.}**

4 ~~Section 1.~~ {Sec. 2.} K.S.A. 2013 Supp. 21-6607 is hereby amended to
5 read as follows: 21-6607. (a) Except as required by subsection (c), nothing
6 in this section shall be construed to limit the authority of the court to
7 impose or modify any general or specific conditions of probation,
8 suspension of sentence or assignment to a community correctional services
9 program. The court services officer or community correctional services
10 officer may recommend, and the court may order, the imposition of any
11 conditions of probation, suspension of sentence or assignment to a
12 community correctional services program. For crimes committed on or
13 after July 1, 1993, in presumptive nonprison cases, the court services
14 officer or community correctional services officer may recommend, and
15 the court may order, the imposition of any conditions of probation or
16 assignment to a community correctional services program. The court may
17 at any time order the modification of such conditions, after notice to the
18 court services officer or community correctional services officer and an
19 opportunity for such officer to be heard thereon. The court shall cause a
20 copy of any such order to be delivered to the court services officer and the
21 probationer or to the community correctional services officer and the
22 community corrections participant, as the case may be. The provisions of
23 K.S.A. 75-5291, and amendments thereto, shall be applicable to any
24 assignment to a community correctional services program pursuant to this
25 section.

26 (b) The court may impose any conditions of probation, suspension of
27 sentence or assignment to a community correctional services program that
28 the court deems proper, including, but not limited to, requiring that the
29 defendant:

30 (1) Avoid such injurious or vicious habits, as directed by the court,
31 court services officer or community correctional services officer;

32 (2) avoid such persons or places of disreputable or harmful character,
33 as directed by the court, court services officer or community correctional
34 services officer;

35 (3) report to the court services officer or community correctional
36 services officer as directed;

37 (4) permit the court services officer or community correctional
38 services officer to visit the defendant at home or elsewhere;

39 (5) work faithfully at suitable employment insofar as possible;

40 (6) remain within the state unless the court grants permission to
41 leave;

42 (7) pay a fine or costs, applicable to the offense, in one or several
43 sums and in the manner as directed by the court;

1 (8) support the defendant's dependents;

2 (9) reside in a residential facility located in the community and
3 participate in educational, counseling, work and other correctional or
4 rehabilitative programs;

5 (10) perform community or public service work for local
6 governmental agencies, private corporations organized not for profit, or
7 charitable or social service organizations performing services for the
8 community;

9 (11) perform services under a system of day fines whereby the
10 defendant is required to satisfy fines, costs or reparation or restitution
11 obligations by performing services for a period of days, determined by the
12 court on the basis of ability to pay, standard of living, support obligations
13 and other factors;

14 (12) participate in a house arrest program pursuant to K.S.A. 2013
15 Supp. 21-6609, and amendments thereto;

16 (13) order the defendant to pay the administrative fee authorized by
17 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

18 (14) in felony cases, except for violations of K.S.A. 8-1567, and
19 amendments thereto, be confined in a county jail not to exceed 60 days,
20 which need not be served consecutively.

21 (c) In addition to any other conditions of probation, suspension of
22 sentence or assignment to a community correctional services program, the
23 court shall order the defendant to comply with each of the following
24 conditions:

25 (1) The defendant shall obey all laws of the United States, the state of
26 Kansas and any other jurisdiction to the laws of which the defendant may
27 be subject;

28 (2) make reparation or restitution to the aggrieved party for the
29 damage or loss caused by the defendant's crime, in an amount and manner
30 determined by the court and to the person specified by the court, unless the
31 court finds compelling circumstances which would render a plan of
32 restitution unworkable. If the court finds a plan of restitution unworkable,
33 the court shall state on the record in detail the reasons therefore;

34 (3) (A) pay a correctional supervision fee of \$60 if the person was
35 convicted of a misdemeanor or a fee of \$120 if the person was convicted
36 of a felony. In any case the amount of the correctional supervision fee
37 specified by this paragraph may be reduced or waived by the judge if the
38 person is unable to pay that amount;

39 (B) the correctional supervision fee imposed by this paragraph shall
40 be charged and collected by the district court. The clerk of the district
41 court shall remit all revenues received under this paragraph from
42 correctional supervision fees to the state treasurer in accordance with the
43 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of

1 each such remittance, the state treasurer shall deposit the entire amount in
2 the state treasury to the credit of the state general fund, a sum equal to
3 41.67% of such remittance, and to the correctional supervision fund, a sum
4 equal to 58.33% of such remittance;

5 (C) this paragraph shall apply to persons placed on felony or
6 misdemeanor probation or released on misdemeanor parole to reside in
7 Kansas and supervised by Kansas court services officers under the
8 interstate compact for offender supervision; and

9 (D) this paragraph shall not apply to persons placed on probation or
10 released on parole to reside in Kansas under the uniform act for out-of-
11 state parolee supervision;

12 (4) reimburse the state general fund for all or a part of the
13 expenditures by the state board of indigents' defense services to provide
14 counsel and other defense services to the defendant. In determining the
15 amount and method of payment of such sum, the court shall take account
16 of the financial resources of the defendant and the nature of the burden that
17 payment of such sum will impose. A defendant who has been required to
18 pay such sum and who is not willfully in default in the payment thereof
19 may at any time petition the court which sentenced the defendant to waive
20 payment of such sum or of any unpaid portion thereof. If it appears to the
21 satisfaction of the court that payment of the amount due will impose
22 manifest hardship on the defendant or the defendant's immediate family,
23 the court may waive payment of all or part of the amount due or modify
24 the method of payment. The amount of attorney fees to be included in the
25 court order for reimbursement shall be the amount claimed by appointed
26 counsel on the payment voucher for indigents' defense services or the
27 amount prescribed by the board of indigents' defense services
28 reimbursement tables as provided in K.S.A. 22-4522, and amendments
29 thereto, whichever is less;

30 (5) be subject to searches of the defendant's person, effects, vehicle,
31 residence and property by a court services officer, a community
32 correctional services officer and any other law enforcement officer based
33 on reasonable suspicion of the defendant violating conditions of probation
34 or criminal activity; and

35 (6) be subject to random, but reasonable, tests for drug and alcohol
36 consumption as ordered by a court services officer or community
37 correctional services officer.

38 (d) Any law enforcement officer conducting a search pursuant to
39 subsection (c)(5) shall submit a written report to the appropriate court
40 services officer or community correctional services officer no later than
41 the close of the next business day after such search. The written report
42 shall include the facts leading to such search, the scope of such search and
43 any findings resulting from such search.

1 (e) There is hereby established in the state treasury the correctional
2 supervision fund. All moneys credited to the correctional supervision fund
3 shall be used for: (1) The implementation of and training for use of a
4 statewide, mandatory, standardized risk assessment tool or instrument as
5 specified by the Kansas sentencing commission, pursuant to K.S.A. 75-
6 5291, and amendments thereto; ; (2) *the implementation of and training*
7 *for use of a statewide, mandatory, standardized risk assessment tool or*
8 *instrument for juveniles adjudicated to be juvenile offenders*; and ~~for~~ (3)
9 evidence-based *adult and juvenile* offender supervision programs by
10 judicial branch personnel. If all expenditures for the program have been
11 paid and moneys remain in the correctional supervision fund for a fiscal
12 year, remaining moneys may be expended from the correctional
13 supervision fund to support *adult and juvenile* offender supervision by
14 court services officers. All expenditures from the correctional supervision
15 fund shall be made in accordance with appropriation acts upon warrants of
16 the director of accounts and reports issued pursuant to vouchers approved
17 by the chief justice of the Kansas supreme court or by a person or persons
18 designated by the chief justice.

19 ~~Sec. 2.~~ **{3.}** K.S.A. 2013 Supp. 38-2347 is hereby amended to read as
20 follows: 38-2347. (a) (1) Except as otherwise provided in this section, at
21 any time after commencement of proceedings under this code against a
22 juvenile and prior to the beginning of an evidentiary hearing at which the
23 court may enter a sentence as provided in K.S.A. 2013 Supp. 38-2356, and
24 amendments thereto, the county or district attorney or the county or district
25 attorney's designee may file a motion requesting that the court authorize
26 prosecution of the juvenile as an adult under the applicable criminal
27 statute. The juvenile shall be presumed to be a juvenile unless good cause
28 is shown to prosecute the juvenile as an adult. *No juvenile less than 14*
29 *years of age shall be prosecuted as an adult.*

30 (2) The alleged juvenile offender shall be presumed to be an adult if
31 the alleged juvenile offender was: (A) 14, 15, 16 or 17 years of age at the
32 time of the offense or offenses alleged in the complaint, if any such
33 offense: (i) If committed by an adult, would constitute an off-grid crime, a
34 person felony or a nondrug severity level 1 through 6 felony; (ii)
35 committed prior to July 1, 2012, if committed by an adult prior to July 1,
36 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii)
37 committed on or after July 1, 2012, if committed by an adult on or after
38 July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or
39 (iv) was committed while in possession of a firearm; or (B) charged with a
40 felony or with more than one offense, one or more of which constitutes a
41 felony, after having been adjudicated or convicted in a separate juvenile
42 proceeding as having committed an offense which would constitute a
43 felony if committed by an adult and the adjudications or convictions

1 occurred prior to the date of the commission of the new act charged and
2 prior to the beginning of an evidentiary hearing at which the court may
3 enter a sentence as provided in K.S.A. 2013 Supp. 38-2356, and
4 amendments thereto. If the juvenile is presumed to be an adult, the burden
5 is on the juvenile to rebut the presumption by a preponderance of the
6 evidence.

7 (3) At any time after commencement of proceedings under this code
8 against a juvenile offender and prior to the beginning of an evidentiary
9 hearing at which the court may enter a sentence as provided in K.S.A.
10 2013 Supp. 38-2356, and amendments thereto, the county or district
11 attorney or the county or district attorney's designee may file a motion
12 requesting that the court designate the proceedings as an extended
13 jurisdiction juvenile prosecution.

14 (4) If the county or district attorney or the county or district attorney's
15 designee files a motion to designate the proceedings as an extended
16 jurisdiction juvenile prosecution and the juvenile was 14, 15, 16 or 17
17 years of age at the time of the offense or offenses alleged in the complaint
18 and: (A) Charged with an offense: (i) If committed by an adult, would
19 constitute an off-grid crime, a person felony or a nondrug severity level 1
20 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an
21 adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3
22 felony; (iii) committed on or after July 1, 2012, if committed by an adult
23 on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4
24 felony; or (iv) was committed while in possession of a firearm; or (B)
25 charged with a felony or with more than, one offense, one or more of
26 which constitutes a felony, after having been adjudicated or convicted in a
27 separate juvenile proceeding as having committed an act which would
28 constitute a felony if committed by an adult and the adjudications or
29 convictions occurred prior to the date of the commission of the new
30 offense charged, the burden is on the juvenile to rebut the designation of
31 an extended jurisdiction juvenile prosecution by a preponderance of the
32 evidence. In all other motions requesting that the court designate the
33 proceedings as an extended jurisdiction juvenile prosecution, the juvenile
34 is presumed to be a juvenile. The burden of proof is on the prosecutor to
35 prove the juvenile should be designated as an extended jurisdiction
36 juvenile.

37 (b) The motion also may contain a statement that the prosecuting
38 attorney will introduce evidence of the offenses alleged in the complaint
39 and request that, on hearing the motion and authorizing prosecution as an
40 adult or designating the proceedings as an extended jurisdiction juvenile
41 prosecution under this code, the court may make the findings required in a
42 preliminary examination provided for in K.S.A. 22-2902, and amendments
43 thereto, and the finding that there is no necessity for further preliminary

1 examination.

2 (c) (1) Upon receiving the motion, the court shall set a time and place
3 for hearing. The court shall give notice of the hearing to the juvenile, each
4 parent, if service is possible, and the attorney representing the juvenile.
5 The motion shall be heard and determined prior to any further proceedings
6 on the complaint.

7 (2) At the hearing, the court shall inform the juvenile of the
8 following:

9 (A) The nature of the charges in the complaint;

10 (B) the right of the juvenile to be presumed innocent of each charge;

11 (C) the right to trial without unnecessary delay and to confront and
12 cross-examine witnesses appearing in support of the allegations of the
13 complaint;

14 (D) the right to subpoena witnesses;

15 (E) the right of the juvenile to testify or to decline to testify; and

16 (F) the sentencing alternatives the court may select as the result of the
17 juvenile being prosecuted under an extended jurisdiction juvenile
18 prosecution.

19 (d) If the juvenile fails to appear for hearing on the motion after
20 having been served with notice of the hearing, the court may hear and
21 determine the motion in the absence of the juvenile. If the court is unable
22 to obtain service of process and give notice of the hearing, the court may
23 hear and determine the motion in the absence of the alleged juvenile
24 offender after having given notice of the hearing at least once a week for
25 two consecutive weeks in the official county newspaper of the county
26 where the hearing will be held.

27 (e) In determining whether or not prosecution as an adult should be
28 authorized or designating the proceeding as an extended jurisdiction
29 juvenile prosecution, the court shall consider each of the following factors:

30 (1) The seriousness of the alleged offense and whether the protection
31 of the community requires prosecution as an adult or designating the
32 proceeding as an extended jurisdiction juvenile prosecution;

33 (2) whether the alleged offense was committed in an aggressive,
34 violent, premeditated or willful manner;

35 (3) whether the offense was against a person or against property.
36 Greater weight shall be given to offenses against persons, especially if
37 personal injury resulted;

38 (4) the number of alleged offenses unadjudicated and pending against
39 the juvenile;

40 (5) the previous history of the juvenile, including whether the
41 juvenile had been adjudicated a juvenile offender under this code or the
42 Kansas juvenile justice code and, if so, whether the offenses were against
43 persons or property, and any other previous history of antisocial behavior

1 or patterns of physical violence;

2 (6) the sophistication or maturity of the juvenile as determined by
3 consideration of the juvenile's home, environment, emotional attitude,
4 pattern of living or desire to be treated as an adult;

5 (7) whether there are facilities or programs available to the court
6 which are likely to rehabilitate the juvenile prior to the expiration of the
7 court's jurisdiction under this code; and

8 (8) whether the interests of the juvenile or of the community would
9 be better served by criminal prosecution or extended jurisdiction juvenile
10 prosecution.

11 The insufficiency of evidence pertaining to any one or more of the
12 factors listed in this subsection, in and of itself, shall not be determinative
13 of the issue. Subject to the provisions of K.S.A. 2013 Supp. 38-2354, and
14 amendments thereto, written reports and other materials relating to the
15 juvenile's mental, physical, educational and social history may be
16 considered by the court.

17 (f) (1) The court may authorize prosecution as an adult upon
18 completion of the hearing if the court finds from a preponderance of the
19 evidence that the alleged juvenile offender should be prosecuted as an
20 adult for the offense charged. In that case, the court shall direct the alleged
21 juvenile offender be prosecuted under the applicable criminal statute and
22 that the proceedings filed under this code be dismissed.

23 (2) The court may designate the proceeding as an extended
24 jurisdiction juvenile prosecution upon completion of the hearing if the
25 juvenile has failed to rebut the presumption or the court finds from a
26 preponderance of the evidence that the juvenile should be prosecuted
27 under an extended jurisdiction juvenile prosecution.

28 (3) After a proceeding in which prosecution as an adult is requested
29 pursuant to subsection (a)(2), and prosecution as an adult is not authorized,
30 the court may designate the proceedings to be an extended jurisdiction
31 juvenile prosecution.

32 (4) A juvenile who is the subject of an extended jurisdiction juvenile
33 prosecution shall have the right to a trial by jury, to the effective assistance
34 of counsel and to all other rights of a defendant pursuant to the Kansas
35 code of criminal procedure. Each court shall adopt local rules to establish
36 the basic procedures for extended jurisdiction juvenile prosecution in such
37 court's jurisdiction.

38 (g) If the juvenile is present in court and the court also finds from the
39 evidence that it appears a felony has been committed and that there is
40 probable cause to believe the felony has been committed by the juvenile,
41 the court may direct that there is no necessity for further preliminary
42 examination on the charges as provided for in K.S.A. 22-2902, and
43 amendments thereto. In that case, the court shall order the juvenile bound

1 over to the district judge having jurisdiction to try the case.

2 (h) If the juvenile is convicted, the authorization for prosecution as an
3 adult shall attach and apply to any future prosecutions of the juvenile
4 which are or would be cognizable under this code. If the juvenile is not
5 convicted, the authorization for prosecution as an adult shall not attach and
6 shall not apply to future prosecutions of the juvenile which are or would be
7 cognizable under this code.

8 (i) If the juvenile is prosecuted as an adult under subsection (a)(2)
9 and is not convicted in adult court of an offense listed in subsection (a)(2)
10 but is convicted or adjudicated of a lesser included offense, the juvenile
11 shall be a juvenile offender and receive a sentence pursuant to K.S.A. 2013
12 Supp. 38-2361, and amendments thereto.

13 ~~Sec. 3.~~ {4.} K.S.A. 2013 Supp. 38-2360 is hereby amended to read as
14 follows: 38-2360. (a) At any time after the juvenile has been adjudicated to
15 be a juvenile offender, the court shall order one or more of the tools
16 described in this subsection to be submitted to assist the court unless the
17 court finds that adequate and current information is available from a
18 previous investigation, report or other sources:

19 (1) An evaluation and written report by a mental health or a qualified
20 professional stating the psychological or emotional development or needs
21 of the juvenile. The court also may order a report from any mental health
22 or qualified professional who has previously evaluated the juvenile stating
23 the psychological or emotional development needs of the juvenile. If the
24 court orders an evaluation as provided in this section, a parent of the
25 juvenile shall have the right to obtain an independent evaluation at the
26 expense of the parent.

27 (2) A report of the medical condition and needs of the juvenile. The
28 court also may order a report from any physician who has been attending
29 the juvenile, stating the diagnosis, condition and treatment afforded the
30 juvenile.

31 (3) An educational needs assessment of the juvenile from the chief
32 administrative officer of the school which the juvenile attends or attended
33 to provide to the court information that is readily available which the
34 school officials feel would properly indicate the educational needs of the
35 juvenile. The educational needs assessment may include a meeting
36 involving any of the following: (A) The juvenile's parents; (B) the
37 juvenile's teacher or teachers; (C) the school psychologist; (D) a school
38 special services representative; (E) a representative of the commissioner;
39 (F) the juvenile's court appointed special advocate; (G) the juvenile's foster
40 parents or legal guardian; and (H) other persons that the chief
41 administrative officer of the school, or the officer's designee, deems
42 appropriate.

43 (4) Any other presentence investigation and report from a court

1 services officer which includes: (A) The circumstances of the offense; (B)
2 the attitude of the complainant, victim or the victim's family; (C) the
3 record of juvenile offenses; (D) the social history of the juvenile; ~~and~~ (E)
4 the present condition of the juvenile; *and (F) a summary of the results*
5 *from a standardized risk assessment tool or instrument.* Except where
6 specifically prohibited by law, all local governmental public and private
7 educational institutions and state agencies shall furnish to the officer
8 conducting the predispositional investigation the records the officer
9 requests. Predispositional investigations shall contain other information
10 prescribed by the court.

11 (5) The court in its discretion may direct that the parents submit a
12 domestic relations affidavit.

13 (b) Expenses for post adjudication tools may be waived or assessed
14 pursuant to subsection (c)(2) of K.S.A. 2013 Supp. 38-2314, and
15 amendments thereto.

16 (c) *Except as otherwise prohibited by law or policy,* the court shall
17 make any of the reports ordered pursuant to subsection (a) available to the
18 attorneys and shall allow the attorneys a reasonable time to review the
19 report before ordering the sentencing of the juvenile offender.

20 (d) At any time prior to sentencing, the judge, at the request of a
21 party, shall hear additional evidence as to proposals for reasonable and
22 appropriate sentencing of the case.

23 ~~Sec. 4.~~ {5.} K.S.A. 2013 Supp. 38-2369 is hereby amended to read as
24 follows: 38-2369. (a) For the purpose of committing juvenile offenders to
25 a juvenile correctional facility, the following placements shall be applied
26 by the judge in felony or misdemeanor cases. If used, the court shall
27 establish a specific term of commitment as specified in this subsection,
28 unless the judge conducts a departure hearing and finds substantial and
29 compelling reasons to impose a departure sentence as provided in K.S.A.
30 2013 Supp. 38-2371, and amendments thereto.

31 (1) *Violent Offenders.* (A) The violent offender I is defined as an
32 offender adjudicated as a juvenile offender for an offense which, if
33 committed by an adult, would constitute an off-grid felony. Offenders in
34 this category may be committed to a juvenile correctional facility for a
35 minimum term of 60 months and up to a maximum term of the offender
36 reaching the age of 22 years, six months. The aftercare term for this
37 offender is set at a minimum term of six months and up to a maximum
38 term of the offender reaching the age of 23 years.

39 (B) The violent offender II is defined as an offender adjudicated as a
40 juvenile offender for an offense which, if committed by an adult, would
41 constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this
42 category may be committed to a juvenile correctional facility for a
43 minimum term of 24 months and up to a maximum term of the offender

1 reaching the age 22 years, six months. The aftercare term for this offender
2 is set at a minimum term of six months and up to a maximum term of the
3 offender reaching the age of 23 years.

4 (2) *Serious Offenders.* (A) The serious offender I is defined as an
5 offender adjudicated as a juvenile offender for an offense:

6 (i) Which, if committed by an adult, would constitute a nondrug
7 severity level 4, 5 or 6 person felony;

8 (ii) committed prior to July 1, 2012, which, if committed by an adult
9 prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony;
10 or

11 (iii) committed on or after July 1, 2012, which, if committed by an
12 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or
13 3 felony.

14 Offenders in this category may be committed to a juvenile correctional
15 facility for a minimum term of 18 months and up to a maximum term of 36
16 months. The aftercare term for this offender is set at a minimum term of
17 six months and up to a maximum term of 24 months.

18 (B) The serious offender II is defined as an offender adjudicated as a
19 juvenile offender for an offense which, if committed by an adult, would
20 constitute a nondrug severity level 7, 8, 9 or 10 person felony with one
21 prior felony adjudication. *Offenders in this category may only be*
22 *committed to a juvenile correctional facility if the judge conducts a*
23 *departure hearing and finds substantial and compelling reasons to impose*
24 *a departure sentence as provided in K.S.A. 2013 Supp. 38-2371, and*
25 *amendments thereto. If a departure sentence is imposed,* offenders in this
26 category may be committed to a juvenile correctional facility for a
27 minimum term of nine months and up to a maximum term of 18 months.
28 The aftercare term for this offender is set at a minimum term of six months
29 and up to a maximum term of 24 months.

30 (3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is
31 defined as an offender adjudicated as a juvenile offender for an offense:

32 (i) Which, if committed by an adult, would constitute one present
33 nonperson felony adjudication and two prior felony adjudications;

34 (ii) committed prior to July 1, 2012, which, if committed by an adult
35 prior to July 1, 2012, would constitute one present drug severity level 3
36 felony adjudication and two prior felony adjudications; or

37 (iii) committed on or after July 1, 2012, which, if committed by an
38 adult on or after July 1, 2012, would constitute one present drug severity
39 level 4 felony adjudication and two prior felony adjudications.

40 *Offenders in this category may only be committed to a juvenile*
41 *correctional facility if the judge conducts a departure hearing and finds*
42 *substantial and compelling reasons to impose a departure sentence as*
43 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*

1 *departure sentence is imposed*, offenders in this category may be
2 committed to a juvenile correctional facility for a minimum term of six
3 months and up to a maximum term of 18 months. The aftercare term for
4 this offender is set at a minimum term of six months and up to a maximum
5 term of 12 months.

6 (B) The chronic offender II, escalating felon is defined as an offender
7 adjudicated as a juvenile offender for an offense:

8 (i) Which, if committed by an adult, would constitute one present
9 felony adjudication and either two prior misdemeanor adjudications or one
10 prior person or nonperson felony adjudication;

11 (ii) which, if committed by an adult, would constitute one present
12 felony adjudication and two prior drug severity level 4 or 5 adjudications;

13 (iii) committed prior to July 1, 2012, which, if committed by an adult
14 prior to July 1, 2012, would constitute one present drug severity level 3
15 felony adjudication and either two prior misdemeanor adjudications or one
16 prior person or nonperson felony adjudication;

17 (iv) committed prior to July 1, 2012, which, if committed by an adult
18 prior to July 1, 2012, would constitute one present drug severity level 3
19 felony adjudication and two prior drug severity level 4 or 5 adjudications;

20 (v) committed on or after July 1, 2012, which, if committed by an
21 adult on or after July 1, 2012, would constitute one present drug severity
22 level 4 felony adjudication and either two prior misdemeanor adjudications
23 or one prior person or nonperson felony adjudication; or

24 (vi) committed on or after July 1, 2012, which, if committed by an
25 adult on or after July 1, 2012, would constitute one present drug severity
26 level 4 felony adjudication and two prior drug severity level 4 or 5
27 adjudications.

28 *Offenders in this category may only be committed to a juvenile*
29 *correctional facility if the judge conducts a departure hearing and finds*
30 *substantial and compelling reasons to impose a departure sentence as*
31 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*
32 *departure sentence is imposed*, offenders in this category may be
33 committed to a juvenile correctional facility for a minimum term of six
34 months and up to a maximum term of 18 months. The aftercare term for
35 this offender is set at a minimum term of six months and up to a maximum
36 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:

39 (i) Which, if committed by an adult, would constitute one present
40 misdemeanor adjudication and either two prior misdemeanor adjudications
41 or one prior person or nonperson felony adjudication and two placement
42 failures;

43 (ii) which, if committed by an adult, would constitute one present

1 misdemeanor adjudication and two prior drug severity level 4 or 5 felony
2 adjudications and two placement failures;

3 (iii) Which, if committed by an adult, would constitute one present
4 drug severity level 4 felony adjudication and either two prior misdemeanor
5 adjudications or one prior person or nonperson felony adjudication and
6 two placement failures;

7 (iv) which, if committed by an adult, would constitute one present
8 drug severity level 4 felony adjudication and two prior drug severity level
9 4 or 5 felony adjudications and two placement failures;

10 (v) committed on or after July 1, 2012, which, if committed by an
11 adult on or after July 1, 2012, would constitute one present drug severity
12 level 5 felony adjudication and either two prior misdemeanor adjudications
13 or one prior person or nonperson felony adjudication and two placement
14 failures; or

15 (vi) committed on or after July 1, 2012, which, if committed by an
16 adult on or after July 1, 2012, would constitute one present drug severity
17 level 5 felony adjudication and two prior drug severity level 4 or 5
18 adjudications and two placement failures.

19 *Offenders in this category may only be committed to a juvenile*
20 *correctional facility if the judge conducts a departure hearing and finds*
21 *substantial and compelling reasons to impose a departure sentence as*
22 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*
23 *departure sentence is imposed, offenders in this category may be*
24 *committed to a juvenile correctional facility for a minimum term of three*
25 *months and up to a maximum term of six months. The aftercare term for*
26 *this offender is set at a minimum term of three months and up to a*
27 *maximum term of six months.*

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

30 (A) Subject to the limitations in subsection (a) of K.S.A. 2013 Supp.
31 38-2366, and amendments thereto, commit the offender directly to a
32 juvenile correctional facility for a minimum term of three months and up
33 to a maximum term of six months. The aftercare term for this offender
34 shall be a minimum of two months and a maximum of six months, or the
35 length of the aftercare originally ordered, whichever is longer.

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

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

39 (ii) Order the offender to serve a period of sanctions pursuant to
40 subsection (f) of K.S.A. 2013 Supp. 38-2361, and amendments thereto.

41 (iii) Revoke or restrict the juvenile's driving privileges as described in
42 subsection (c) of K.S.A. 2013 Supp. 38-2361, and amendments thereto.

43 (C) Discharge the offender from the custody of the commissioner,

1 release the commissioner from further responsibilities in the case and enter
2 any other appropriate orders.

3 (b) As used in this section:

4 (1) "Placement failure" means a juvenile offender in the custody of
5 the juvenile justice authority has significantly failed the terms of
6 conditional release or has been placed out-of-home in a community
7 placement accredited by the commissioner and has significantly violated
8 the terms of that placement or violated the terms of probation.

9 (2) "Adjudication" includes out-of-state juvenile adjudications. An
10 out-of-state offense, which if committed by an adult would constitute the
11 commission of a felony or misdemeanor, shall be classified as either a
12 felony or a misdemeanor according to the adjudicating jurisdiction. If an
13 offense which if committed by an adult would constitute the commission
14 of a felony is a felony in another state, it will be deemed a felony in
15 Kansas. The state of Kansas shall classify the offense, which if committed
16 by an adult would constitute the commission of a felony or misdemeanor,
17 as person or nonperson. In designating such offense as person or
18 nonperson, reference to comparable offenses shall be made. If the state of
19 Kansas does not have a comparable offense, the out-of-state adjudication
20 shall be classified as a nonperson offense.

21 (c) All appropriate community placement options shall have been
22 exhausted before a chronic offender III, escalating misdemeanant shall be
23 placed in a juvenile correctional facility. A court finding shall be made
24 acknowledging that appropriate community placement options have been
25 pursued and no such option is appropriate.

26 (d) The commissioner shall work with the community to provide on-
27 going support and incentives for the development of additional community
28 placements to ensure that the chronic offender III, escalating
29 misdemeanant sentencing category is not frequently utilized.

30 (e) Any juvenile offender committed to a juvenile correctional facility
31 who is adjudicated for an offense committed while such juvenile was
32 committed to a juvenile correctional facility, may be adjudicated to serve a
33 consecutive term of commitment in a juvenile correctional facility.

34 Sec. 5-6. K.S.A. 2013 Supp. 38-2370 is hereby amended to read as
35 follows: 38-2370. (a) For purposes of determining release of a juvenile
36 offender, a system shall be developed whereby good behavior is the
37 expected norm and negative behavior will be punished.

38 (b) The commissioner shall adopt rules and regulations to carry out
39 the provisions of this section regarding good time calculations. Such rules
40 and regulations shall provide circumstances upon which a juvenile
41 offender may earn good time credits through participation in programs
42 which may include, but not be limited to, education programs, work
43 participation, treatment programs, vocational programs, activities and

1 behavior modification. Such good time credits may also include the
2 juvenile offender's willingness to examine and confront the past behavior
3 patterns that resulted in the commission of the juvenile's offense.

4 ~~(e) If the placement sentence established in K.S.A. 2013 Supp. 38-~~
5 ~~2369, and amendments thereto, is used by the court, the juvenile offender~~
6 ~~shall serve no less than the minimum term authorized under the specific~~
7 ~~category of such placement sentence.~~

8 Sec. ~~6.~~ **{7.}** K.S.A. 2013 Supp. 21-6607, 38-2347, 38-2360, 38-2369
9 and 38-2370 are hereby repealed.

10 Sec. ~~7.~~ **{8.}** This act shall take effect and be in force from and after its
11 publication in the statute book.