

**As Amended by House Committee**

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*Session of 2015*

**HOUSE BILL No. 2336**

By Committee on Corrections and Juvenile Justice

2-12

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1 AN ACT concerning children and minors; relating to juvenile offenders;  
2 risk assessment tool; amending K.S.A. 2014 Supp. 38-2361 and 38-  
3 2369 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 38-2361 is hereby amended to read as  
7 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to  
8 K.S.A. 2014 Supp. 38-2356, and amendments thereto, modification of  
9 sentence pursuant to K.S.A. 2014 Supp. 38-2367, and amendments thereto,  
10 or violation of a condition of sentence pursuant to K.S.A. 2014 Supp. 38-  
11 2368, and amendments thereto, and subject to ~~subsection (a)~~ of K.S.A.  
12 2014 Supp. 38-2365(a), and amendments thereto, the court may impose  
13 one or more of the following sentencing alternatives. In the event that any  
14 sentencing alternative chosen constitutes an order authorizing or requiring  
15 removal of the juvenile from the juvenile's home and such findings either  
16 have not previously been made or the findings are not or may no longer be  
17 current, the court shall make determinations as required by K.S.A. 2014  
18 Supp. 38-2334 and 38-2335, and amendments thereto.

19 (1) Place the juvenile on probation through court services or  
20 community corrections for a fixed period, subject to terms and conditions  
21 the court deems appropriate consistent with juvenile justice programs in  
22 the community.

23 (2) Order the juvenile to participate in a community based program  
24 available in such judicial district subject to the terms and conditions the  
25 court deems appropriate. This alternative shall not be ordered with the  
26 alternative in paragraph (12) and when ordered with the alternative in  
27 paragraph (10) shall constitute a recommendation. Requirements  
28 pertaining to child support may apply if custody is vested with other than a  
29 parent.

30 (3) Place the juvenile in the custody of a parent or other suitable  
31 person, subject to terms and conditions consistent with juvenile justice  
32 programs in the community. This alternative shall not be ordered with the  
33 alternative in paragraph (10) or (12). Requirements pertaining to child  
34 support may apply if custody is vested with other than a parent.

35 (4) Order the juvenile to attend counseling, educational, mediation or  
36 other sessions, or to undergo a drug evaluation pursuant to subsection (b).

1 (5) Suspend or restrict the juvenile's driver's license or privilege to  
2 operate a motor vehicle on the streets and highways of this state pursuant  
3 to subsection (c).

4 (6) Order the juvenile to perform charitable or community service  
5 work.

6 (7) Order the juvenile to make appropriate reparation or restitution  
7 pursuant to subsection (d).

8 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to  
9 subsection (e).

10 (9) Place the juvenile under a house arrest program administered by  
11 the court pursuant to K.S.A. 2014 Supp. 21-6609, and amendments  
12 thereto.

13 (10) Place the juvenile in the custody of the commissioner as  
14 provided in K.S.A. 2014 Supp. 38-2365, and amendments thereto. This  
15 alternative shall not be ordered with the alternative in paragraph (3) or  
16 (12). Except for a mandatory drug and alcohol evaluation, when this  
17 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such  
18 orders shall constitute a recommendation by the court. Requirements  
19 pertaining to child support shall apply under this alternative.

20 (11) Commit the juvenile to a sanctions house for a period no longer  
21 than 28 days subject to the provisions of subsection ~~(f)~~(g).

22 (12) Commit the juvenile directly to the custody of the commissioner  
23 for a period of confinement in a juvenile correctional facility and a period  
24 of aftercare pursuant to K.S.A. 2014 Supp. 38-2369, and amendments  
25 thereto. The provisions of K.S.A. 2014 Supp. 38-2365, and amendments  
26 thereto, shall not apply to juveniles committed pursuant to this provision,  
27 provided however, that 21 days prior to the juvenile's release from a  
28 juvenile correctional facility, the commissioner or designee shall notify the  
29 court of the juvenile's anticipated release date. The court shall set and hold  
30 a permanency hearing pursuant to K.S.A. 2014 Supp. 38-2365, and  
31 amendments thereto, within seven days after the juvenile's release. This  
32 alternative may be ordered with the alternative in paragraph (7).  
33 Requirements pertaining to child support shall apply under this alternative.

34 (b) If the court orders the juvenile to attend counseling, educational,  
35 mediation or other sessions, or to undergo a drug and alcohol evaluation  
36 pursuant to subsection (a)(4), the following provisions apply:

37 (1) The court may order the juvenile offender to participate in  
38 counseling or mediation sessions or a program of education, including  
39 placement in an alternative educational program approved by a local  
40 school board. The costs of any counseling or mediation may be assessed as  
41 expenses in the case. No mental health center shall charge a fee for court-  
42 ordered counseling greater than what the center would have charged the  
43 person receiving the counseling if the person had requested counseling on

1 the person's own initiative. No mediator shall charge a fee for court-  
2 ordered mediation greater than what the mediator would have charged the  
3 person participating in the mediation if the person had requested mediation  
4 on the person's own initiative. Mediation may include the victim but shall  
5 not be mandatory for the victim; and

6 (2) if the juvenile has been adjudicated to be a juvenile by reason of a  
7 violation of a statute that makes such a requirement, the court shall order  
8 and, if adjudicated for any other offense, the court may order the juvenile  
9 to submit to and complete a drug and alcohol evaluation by a community-  
10 based drug and alcohol safety action program certified pursuant to K.S.A.  
11 8-1008, and amendments thereto, and to pay a fee not to exceed the fee  
12 established by that statute for such evaluation. The court may waive the  
13 mandatory evaluation if the court finds that the juvenile completed a drug  
14 and alcohol evaluation, approved by the community-based alcohol and  
15 drug safety action program, within 12 months before sentencing. If the  
16 evaluation occurred more than 12 months before sentencing, the court  
17 shall order the juvenile to resubmit to and complete the evaluation and  
18 program as provided herein. If the court finds that the juvenile and those  
19 legally liable for the juvenile's support are indigent, the court may waive  
20 the fee. In no event shall the fee be assessed against the commissioner or  
21 the juvenile justice authority nor shall the fee be assessed against the  
22 secretary of the department for children and families or the Kansas  
23 department for children and families if the juvenile is in the secretary's  
24 care, custody and control.

25 (c) If the court orders suspension or restriction of a juvenile offender's  
26 driver's license or privilege to operate a motor vehicle on the streets and  
27 highways of this state pursuant to subsection (a)(5), the following  
28 provisions apply:

29 (1) The duration of the suspension ordered by the court shall be for a  
30 definite time period to be determined by the court. Upon suspension of a  
31 license pursuant to this subsection, the court shall require the juvenile  
32 offender to surrender the license to the court. The court shall transmit the  
33 license to the division of motor vehicles of the department of revenue, to  
34 be retained until the period of suspension expires. At that time, the licensee  
35 may apply to the division for return of the license. If the license has  
36 expired, the juvenile offender may apply for a new license, which shall be  
37 issued promptly upon payment of the proper fee and satisfaction of other  
38 conditions established by law for obtaining a license unless another  
39 suspension or revocation of the juvenile offender's privilege to operate a  
40 motor vehicle is in effect. As used in this subsection, "highway" and  
41 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and  
42 amendments thereto. Any juvenile offender who does not have a driver's  
43 license may have driving privileges revoked. No Kansas driver's license

1 shall be issued to a juvenile offender whose driving privileges have been  
2 revoked pursuant to this section for a definite time period to be determined  
3 by the court; and

4 (2) in lieu of suspending a juvenile offender's driver's license or  
5 privilege to operate a motor vehicle on the highways of this state, the court  
6 may enter an order which places conditions on the juvenile offender's  
7 privilege of operating a motor vehicle on the streets and highways of this  
8 state, a certified copy of which the juvenile offender shall be required to  
9 carry any time the juvenile offender is operating a motor vehicle on the  
10 streets and highways of this state. The order shall prescribe a definite time  
11 period for the conditions imposed. Upon entering an order restricting a  
12 juvenile offender's license, the court shall require the juvenile offender to  
13 surrender such juvenile offender's license to the court. The court shall  
14 transmit the license to the division of vehicles, together with a copy of the  
15 order. Upon receipt thereof, the division of vehicles shall issue without  
16 charge a driver's license which shall indicate on its face that conditions  
17 have been imposed on the juvenile offender's privilege of operating a  
18 motor vehicle and that a certified copy of the order imposing the  
19 conditions is required to be carried by the juvenile offender when  
20 operating a motor vehicle on the streets and highways of this state. If the  
21 juvenile offender is a nonresident, the court shall cause a copy of the order  
22 to be transmitted to the division and the division shall forward a copy of it  
23 to the motor vehicle administrator of the juvenile offender's state of  
24 issuance. The court shall furnish to any juvenile offender whose driver's  
25 license has had conditions imposed on it under this section a copy of the  
26 order, which shall be recognized as a valid Kansas driver's license until the  
27 division issues the restricted license provided for in this subsection. Upon  
28 expiration of the period of time for which conditions are imposed pursuant  
29 to this subsection, the juvenile offender may apply to the division for the  
30 return of the license previously surrendered by the juvenile offender. In the  
31 event the license has expired, the juvenile offender may apply to the  
32 division for a new license, which shall be issued immediately by the  
33 division upon payment of the proper fee and satisfaction of the other  
34 conditions established by law unless such juvenile offender's privilege to  
35 operate a motor vehicle on the streets and highways of this state has been  
36 suspended or revoked prior thereto. If any juvenile offender violates any of  
37 the conditions imposed under this subsection, the juvenile offender's  
38 driver's license or privilege to operate a motor vehicle on the streets and  
39 highways of this state shall be revoked for a period as determined by the  
40 court in which the juvenile offender is convicted of violating such  
41 conditions.

42 (d) The following provisions apply to the court's determination of  
43 whether to order reparation or restitution pursuant to subsection (a)(7):

1 (1) The court shall order the juvenile to make reparation or restitution  
2 to the aggrieved party for the damage or loss caused by the juvenile  
3 offender's offense unless it finds compelling circumstances that would  
4 render a plan of reparation or restitution unworkable. If the court finds  
5 compelling circumstances that would render a plan of reparation or  
6 restitution unworkable, the court shall enter such findings with  
7 particularity on the record. In lieu of reparation or restitution, the court  
8 may order the juvenile to perform charitable or social service for  
9 organizations performing services for the community; and

10 (2) restitution may include, but shall not be limited to, the amount of  
11 damage or loss caused by the juvenile's offense. Restitution may be made  
12 by payment of an amount fixed by the court or by working for the parties  
13 sustaining loss in the manner ordered by the court. An order of monetary  
14 restitution shall be a judgment against the juvenile that may be collected  
15 by the court by garnishment or other execution as on judgments in civil  
16 cases. Such judgment shall not be affected by the termination of the court's  
17 jurisdiction over the juvenile offender.

18 (e) If the court imposes a fine pursuant to subsection (a)(8), the  
19 following provisions apply:

20 (1) The amount of the fine may not exceed \$1,000 for each offense.  
21 The amount of the fine should be related to the seriousness of the offense  
22 and the juvenile's ability to pay. Payment of a fine may be required in a  
23 lump sum or installments;

24 (2) in determining whether to impose a fine and the amount to be  
25 imposed, the court shall consider that imposition of a fine is most  
26 appropriate in cases where the juvenile has derived pecuniary gain from  
27 the offense and that imposition of a restitution order is preferable to  
28 imposition of a fine; and

29 (3) any fine imposed by court shall be a judgment against the juvenile  
30 that may be collected by the court by garnishment or other execution as on  
31 judgments in civil cases. Such judgment shall not be affected by the  
32 termination of the court's jurisdiction over the juvenile.

33 (f) *Before the court places the juvenile in a detention center as part of*  
34 *probation or community corrections pursuant to subsection (a)(1), places*  
35 *the juvenile under a house arrest program pursuant to subsection (a)(9),*  
36 *places the juvenile in the custody of the commissioner pursuant to*  
37 *subsection (a)(10), commits the juvenile to a sanctions house pursuant to*  
38 *subsection (a)(11) or commits the juvenile directly to the custody of the*  
39 *commissioner for a period of confinement in a juvenile correctional*  
40 *facility pursuant to subsection (a)(12), the court shall administer a risk*  
41 *assessment tool, as described in K.S.A. 2014 Supp. 38-2360, and*  
42 *amendments thereto, or review a risk assessment tool that was*  
43 *administered within the past six months to the juvenile.*

1       ~~(f)~~ (g) If the court commits the juvenile to a sanctions house pursuant  
2 to subsection (a)(11), the following provisions shall apply:

3       (1) The court may order commitment for up to 28 days for the same  
4 offense or violation of sentencing condition. The court shall review the  
5 commitment every seven days and, may shorten the initial commitment or,  
6 if the initial term is less than 28 days, may extend the commitment;

7       (2) if, in the sentencing order, the court orders a sanctions house  
8 placement for a verifiable probation violation and such probation violation  
9 occurs, the juvenile may immediately be taken to a sanctions house and  
10 detained for no more than 48 hours, excluding Saturdays, Sundays,  
11 holidays, and days on which the office of the clerk of the court is not  
12 accessible, prior to court review of the placement. The court and all parties  
13 shall be notified of the sanctions house placement; and

14       (3) a juvenile over 18 years of age and less than 23 years of age at  
15 sentencing shall be committed to a county jail, in lieu of a sanctions house,  
16 under the same time restrictions imposed by paragraph (1), but shall not be  
17 committed to or confined in a juvenile detention facility.

18       ~~(g)~~ (h) Any order issued by the judge pursuant to this section shall be  
19 in effect immediately upon entry into the court's minutes.

20       ~~(h)~~ (i) In addition to the requirements of K.S.A. 2014 Supp. 38-2373,  
21 and amendments thereto, if a person is under 18 years of age and  
22 convicted of a felony or adjudicated as a juvenile offender for an offense if  
23 committed by an adult would constitute the commission of a felony, the  
24 court shall forward a signed copy of the journal entry to the commissioner  
25 within 30 days of final disposition.

26       ~~(i)~~ (j) Except as further provided, if a juvenile has been adjudged to  
27 be a juvenile offender for an offense that if committed by an adult would  
28 constitute the commission of: (1) Aggravated human trafficking, as defined  
29 in ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5426(b), and amendments  
30 thereto, if the victim is less than 14 years of age; (2) rape, as defined in  
31 ~~subsection (a)(3) of~~ K.S.A. 2014 Supp. 21-5503(a)(3), and amendments  
32 thereto; (3) aggravated indecent liberties with a child, as defined in  
33 ~~subsection (b)(3) of~~ K.S.A. 2014 Supp. 21-5506(b)(3), and amendments  
34 thereto; (4) aggravated criminal sodomy, as defined in ~~subsection (b)(1) or~~  
35 ~~(b)(2) of~~ K.S.A. 2014 Supp. 21-5504(b)(1) or (b)(2), and amendments  
36 thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A.  
37 2014 Supp. 21-6422, and amendments thereto, if the victim is less than 14  
38 years of age; (6) sexual exploitation of a child, as defined in ~~subsection (a)~~  
39 ~~(1) or (a)(4) of~~ K.S.A. 2014 Supp. 21-5510(a)(1) or (a)(4), and  
40 amendments thereto, if the victim is less than 14 years of age; or (7) an  
41 attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2014  
42 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an  
43 offense defined in ~~parts~~ *paragraphs* (1) through (6); the court shall issue

1 an order prohibiting the juvenile from attending the attendance center that  
2 the victim of the offense attends. If only one attendance center exists, for  
3 which the victim and juvenile are eligible to attend, in the school district  
4 where the victim and the juvenile reside, the court shall hear testimony and  
5 take evidence from the victim, the juvenile, their families and a  
6 representative of the school district as to why the juvenile should or should  
7 not be allowed to remain at the attendance center attended by the victim.  
8 After such hearing, the court may issue an order prohibiting the juvenile  
9 from attending the attendance center that the victim of the offense attends.

10 (j) (k) The sentencing hearing shall be open to the public as provided  
11 in K.S.A. 2014 Supp. 38-2353, and amendments thereto.

12 Sec. 2. K.S.A. 2014 Supp. 38-2369 is hereby amended to read as  
13 follows: 38-2369. (a) For the purpose of committing juvenile offenders to  
14 a juvenile correctional facility, the following placements shall be applied  
15 by the judge in felony or misdemeanor cases. If used, the court shall  
16 establish a specific term of commitment as specified in this subsection,  
17 unless the judge conducts a departure hearing and finds substantial and  
18 compelling reasons to impose a departure sentence as provided in K.S.A.  
19 2014 Supp. 38-2371, and amendments thereto. *Before a juvenile offender*  
20 *is committed to a juvenile correctional facility pursuant to this section, the*  
21 *court shall administer a risk assessment tool, as described in K.S.A. 2014*  
22 *Supp. 38-2360, and amendments thereto, or review a risk assessment tool*  
23 **that was administered within the past six months to the juvenile.**

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

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

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

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

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

4 (iii) committed on or after July 1, 2012, which, if committed by an  
5 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or  
6 3 felony.

7 Offenders in this category may be committed to a juvenile correctional  
8 facility for a minimum term of 18 months and up to a maximum term of 36  
9 months. The aftercare term for this offender is set at a minimum term of  
10 six months and up to a maximum term of 24 months.

11 (B) The serious offender II is defined as an offender adjudicated as a  
12 juvenile offender for an offense which, if committed by an adult, would  
13 constitute a nondrug severity level 7, person felony with one prior felony  
14 adjudication. Offenders in this category may be committed to a juvenile  
15 correctional facility for a minimum term of nine months and up to a  
16 maximum term of 18 months. The aftercare term for this offender is set at  
17 a minimum term of six months and up to a maximum term of 24 months.

18 (C) The serious offender III 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 8, 9 or 10 person felony with one prior  
21 felony adjudication. Offenders in this category may only be committed to a  
22 juvenile correctional facility if the judge conducts a departure hearing and  
23 finds substantial and compelling reasons to impose a departure sentence as  
24 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a  
25 departure sentence is imposed, offenders in this category may be  
26 committed to a juvenile correctional facility for a minimum term of nine  
27 months and up to a maximum term of 18 months. The aftercare term for  
28 this offender is set at a minimum term of six months and up to a maximum  
29 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. 2014 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. 2014 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 misdemeanor 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. 2014 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. 2014 Supp.  
31 38-2366(a), 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. 2014 Supp. 38-2361(g), and amendments thereto.

41 (iii) Revoke or restrict the juvenile's driving privileges as described in  
42 ~~subsection (e)~~ of K.S.A. 2014 Supp. 38-2361(c), 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. 3. K.S.A. 2014 Supp. 38-2361 and 38-2369 are hereby repealed.

35 Sec. 4. This act shall take effect and be in force from and after its  
36 publication in the statute book.