

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2336

By Committee on Corrections and Juvenile Justice

2-12

1 AN ACT concerning children and minors; relating to juvenile offenders;
2 risk assessment tool; *{placement in the custody of the secretary of*
3 *corrections;}* amending K.S.A. 2014 Supp. 38-2361, **38-2366** and 38-
4 2369 and repealing the existing sections.

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

7 Section 1. *{On and after July 1, 2015,}* K.S.A. 2014 Supp. 38-2361
8 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a
9 juvenile offender pursuant to K.S.A. 2014 Supp. 38-2356, and
10 amendments thereto, modification of sentence pursuant to K.S.A. 2014
11 Supp. 38-2367, and amendments thereto, or violation of a condition of
12 sentence pursuant to K.S.A. 2014 Supp. 38-2368, and amendments thereto,
13 and subject to ~~subsection (a)~~ of K.S.A. 2014 Supp. 38-2365(a), and
14 amendments thereto, the court may impose one or more of the following
15 sentencing alternatives. In the event that any sentencing alternative chosen
16 constitutes an order authorizing or requiring removal of the juvenile from
17 the juvenile's home and such findings either have not previously been
18 made or the findings are not or may no longer be current, the court shall
19 make determinations as required by K.S.A. 2014 Supp. 38-2334 and 38-
20 2335, and amendments thereto.

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

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

32 (3) Place the juvenile in the custody of a parent or other suitable

1 person, subject to terms and conditions consistent with juvenile justice
2 programs in the community. This alternative shall not be ordered with the
3 alternative in paragraph (10) or (12). Requirements pertaining to child
4 support may apply if custody is vested with other than a parent.

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

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

10 (6) Order the juvenile to perform charitable or community service
11 work.

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

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

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

19 (10) Place the juvenile in the custody of the ~~commissioner~~ **secretary**
20 **of corrections** as provided in K.S.A. 2014 Supp. 38-2365, and
21 amendments thereto. This alternative shall not be ordered with the
22 alternative in paragraph (3) or (12). Except for a mandatory drug and
23 alcohol evaluation, when this alternative is ordered with alternatives in
24 paragraphs (2), (4) and (9), such orders shall constitute a recommendation
25 by the court. Requirements pertaining to child support shall apply under
26 this alternative.

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

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

42 (b) If the court orders the juvenile to attend counseling, educational,
43 mediation or other sessions, or to undergo a drug and alcohol evaluation

1 pursuant to subsection (a)(4), the following provisions apply:

2 (1) The court may order the juvenile offender to participate in
3 counseling or mediation sessions or a program of education, including
4 placement in an alternative educational program approved by a local
5 school board. The costs of any counseling or mediation may be assessed as
6 expenses in the case. No mental health center shall charge a fee for court-
7 ordered counseling greater than what the center would have charged the
8 person receiving the counseling if the person had requested counseling on
9 the person's own initiative. No mediator shall charge a fee for court-
10 ordered mediation greater than what the mediator would have charged the
11 person participating in the mediation if the person had requested mediation
12 on the person's own initiative. Mediation may include the victim but shall
13 not be mandatory for the victim; and

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

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

37 (1) The duration of the suspension ordered by the court shall be for a
38 definite time period to be determined by the court. Upon suspension of a
39 license pursuant to this subsection, the court shall require the juvenile
40 offender to surrender the license to the court. The court shall transmit the
41 license to the division of motor vehicles of the department of revenue, to
42 be retained until the period of suspension expires. At that time, the licensee
43 may apply to the division for return of the license. If the license has

1 expired, the juvenile offender may apply for a new license, which shall be
2 issued promptly upon payment of the proper fee and satisfaction of other
3 conditions established by law for obtaining a license unless another
4 suspension or revocation of the juvenile offender's privilege to operate a
5 motor vehicle is in effect. As used in this subsection, "highway" and
6 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and
7 amendments thereto. Any juvenile offender who does not have a driver's
8 license may have driving privileges revoked. No Kansas driver's license
9 shall be issued to a juvenile offender whose driving privileges have been
10 revoked pursuant to this section for a definite time period to be determined
11 by the court; and

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

1 suspended or revoked prior thereto. If any juvenile offender violates any of
2 the conditions imposed under this subsection, the juvenile offender's
3 driver's license or privilege to operate a motor vehicle on the streets and
4 highways of this state shall be revoked for a period as determined by the
5 court in which the juvenile offender is convicted of violating such
6 conditions.

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

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

18 (2) restitution may include, but shall not be limited to, the amount of
19 damage or loss caused by the juvenile's offense. Restitution may be made
20 by payment of an amount fixed by the court or by working for the parties
21 sustaining loss in the manner ordered by the court. An order of monetary
22 restitution shall be a judgment against the juvenile that may be collected
23 by the court by garnishment or other execution as on judgments in civil
24 cases. Such judgment shall not be affected by the termination of the court's
25 jurisdiction over the juvenile offender.

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

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

32 (2) in determining whether to impose a fine and the amount to be
33 imposed, the court shall consider that imposition of a fine is most
34 appropriate in cases where the juvenile has derived pecuniary gain from
35 the offense and that imposition of a restitution order is preferable to
36 imposition of a fine; and

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

41 (f) *Before the court places the juvenile in a detention center as part of*
42 *probation or community corrections pursuant to subsection (a)(1), places*
43 *the juvenile under a house arrest program pursuant to subsection (a)(9),*

1 *places the juvenile in the custody of the ~~commissioner~~ secretary of*
2 *corrections pursuant to subsection (a)(10), commits the juvenile to a*
3 *sanctions house pursuant to subsection (a)(11) or commits the juvenile*
4 *directly to the custody of the ~~commissioner~~ secretary of corrections for a*
5 *period of confinement in a juvenile correctional facility pursuant to*
6 *subsection (a)(12), the court shall administer a risk assessment tool, as*
7 *described in K.S.A. 2014 Supp. 38-2360, and amendments thereto, **or***
8 **review a risk assessment tool that was administered within the past six**
9 **months to the juvenile.**

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

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

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

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

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

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

35 ~~(i)~~ (j) Except as further provided, if a juvenile has been adjudged to
36 be a juvenile offender for an offense that if committed by an adult would
37 constitute the commission of: (1) Aggravated human trafficking, as defined
38 in ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5426(b), and amendments
39 thereto, if the victim is less than 14 years of age; (2) rape, as defined in
40 ~~subsection (a)(3)~~ of K.S.A. 2014 Supp. 21-5503(a)(3), and amendments
41 thereto; (3) aggravated indecent liberties with a child, as defined in
42 ~~subsection (b)(3)~~ of K.S.A. 2014 Supp. 21-5506(b)(3), and amendments
43 thereto; (4) aggravated criminal sodomy, as defined in ~~subsection (b)(1)~~ or

1 ~~(b)(2)~~ of K.S.A. 2014 Supp. 21-5504~~(b)(1) or (b)(2)~~, and amendments
 2 thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A.
 3 2014 Supp. 21-6422, and amendments thereto, if the victim is less than 14
 4 years of age; (6) sexual exploitation of a child, as defined in ~~subsection (a)~~
 5 ~~(1) or (a)(4)~~ of K.S.A. 2014 Supp. 21-5510~~(a)(1) or (a)(4)~~, and
 6 amendments thereto, if the victim is less than 14 years of age; or (7) an
 7 attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2014
 8 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an
 9 offense defined in ~~parts~~ *paragraphs* (1) through (6); the court shall issue
 10 an order prohibiting the juvenile from attending the attendance center that
 11 the victim of the offense attends. If only one attendance center exists, for
 12 which the victim and juvenile are eligible to attend, in the school district
 13 where the victim and the juvenile reside, the court shall hear testimony and
 14 take evidence from the victim, the juvenile, their families and a
 15 representative of the school district as to why the juvenile should or should
 16 not be allowed to remain at the attendance center attended by the victim.
 17 After such hearing, the court may issue an order prohibiting the juvenile
 18 from attending the attendance center that the victim of the offense attends.

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

21 *{Sec. 2. K.S.A. 2014 Supp. 38-2366 is hereby amended to read as*
 22 *follows: 38-2366. (a) When a juvenile offender who is:*

23 *(1) Under 16 years of age at the time of the sentencing, has been*
 24 *prosecuted and convicted as an adult or under the extended jurisdiction*
 25 *juvenile prosecution, and has been placed in the custody of the secretary*
 26 *of the department of corrections, the secretary shall notify the sheriff*
 27 *having the offender in custody to convey such juvenile offender at a time*
 28 *designated by the ~~juvenile justice authority~~ department of corrections} to*
 29 *a juvenile correctional facility. ~~The commissioner~~ secretary shall notify*
 30 *the court, in writing, of the initial placement of the offender in the*
 31 *specific juvenile correctional facility as soon as the placement has been*
 32 *accomplished.*

33 *(2) At least 16 but less than 18 years of age at the time of sentencing,*
 34 *has been prosecuted and convicted as an adult or under the extended*
 35 *jurisdiction juvenile prosecution, and has been placed in the custody of the*
 36 *secretary, the secretary shall notify the sheriff having the offender in*
 37 *custody to convey such juvenile offender at a time designated by the*
 38 *department of corrections to a juvenile correctional facility or adult*
 39 *correctional institution. The secretary shall notify the court, in writing, of*
 40 *the initial placement of the offender in the specific juvenile correctional*
 41 *facility or adult correctional institution as soon as the placement has been*
 42 *accomplished.*

43 *~~The commissioner~~ secretary shall not permit the juvenile offender to*

1 *remain detained in any jail for more than 72 hours, excluding*
 2 *Saturdays, Sundays, legal holidays, and days on which the office of the*
 3 *clerk of the court is not accessible, after the ~~commissioner~~ secretary has*
 4 *received the written order of the court placing the offender in the*
 5 *custody of the ~~commissioner~~ secretary. If such placement cannot be*
 6 *accomplished, the offender may remain in jail for an additional period*
 7 *of time, not exceeding 10 days, which is specified by the ~~commissioner~~*
 8 *secretary and approved by the court.*

9 *(b) Except as provided in subsection (a), a juvenile who has been*
 10 *prosecuted and convicted as an adult shall not be eligible for admission*
 11 *to a juvenile correctional facility. All other conditions of the offender's*
 12 *sentence imposed under this code, including restitution orders, may*
 13 *remain intact.* ~~The provisions of this subsection shall not apply to an~~
 14 ~~offender who: (1) Is under 16 years of age at the time of the sentencing;~~
 15 ~~(2) has been prosecuted as an adult or under extended juvenile jurisdiction;~~
 16 ~~and (3) has been placed in the custody of the secretary of corrections,~~
 17 ~~requiring admission to a juvenile correctional facility pursuant to~~
 18 ~~subsection (a).~~

19 Sec. 2. ~~{3.}~~ *{On and after July 1, 2015,}* K.S.A. 2014 Supp. 38-2369
 20 is hereby amended to read as follows: 38-2369. (a) For the purpose of
 21 committing juvenile offenders to a juvenile correctional facility, the
 22 following placements shall be applied by the judge in felony or
 23 misdemeanor cases. If used, the court shall establish a specific term of
 24 commitment as specified in this subsection, unless the judge conducts a
 25 departure hearing and finds substantial and compelling reasons to impose a
 26 departure sentence as provided in K.S.A. 2014 Supp. 38-2371, and
 27 amendments thereto. *Before a juvenile offender is committed to a juvenile*
 28 *correctional facility pursuant to this section, the court shall administer a*
 29 *risk assessment tool, as described in K.S.A. 2014 Supp. 38-2360, and*
 30 *amendments thereto, or review a risk assessment tool that was*
 31 **administered within the past six months to the juvenile.**

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

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

1 minimum term of 24 months and up to a maximum term of the offender
2 reaching the age 22 years, six months. The aftercare term for this offender
3 is set at a minimum term of six months and up to a maximum term of the
4 offender reaching the age of 23 years.

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

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

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

12 (iii) committed on or after July 1, 2012, which, if committed by an
13 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or
14 3 felony.

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

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

26 (C) The serious offender III is defined as an offender adjudicated as a
27 juvenile offender for an offense which, if committed by an adult, would
28 constitute a nondrug severity level 8, 9 or 10 person felony with one prior
29 felony adjudication. Offenders in this category may only be committed to a
30 juvenile correctional facility if the judge conducts a departure hearing and
31 finds substantial and compelling reasons to impose a departure sentence as
32 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a
33 departure sentence is imposed, offenders in this category may be
34 committed to a juvenile correctional facility for a minimum term of nine
35 months and up to a maximum term of 18 months. The aftercare term for
36 this offender is set at a minimum term of six months and up to a maximum
37 term of 24 months.

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

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

42 (ii) committed prior to July 1, 2012, which, if committed by an adult
43 prior to July 1, 2012, would constitute one present drug severity level 3

1 felony adjudication and two prior felony adjudications; or

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

5 Offenders in this category may only be committed to a juvenile
6 correctional facility if the judge conducts a departure hearing and finds
7 substantial and compelling reasons to impose a departure sentence as
8 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a
9 departure sentence is imposed, offenders in this category may be
10 committed to a juvenile correctional facility for a minimum term of six
11 months and up to a maximum term of 18 months. The aftercare term for
12 this offender is set at a minimum term of six months and up to a maximum
13 term of 12 months.

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

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

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

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

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

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

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

36 Offenders in this category may only be committed to a juvenile
37 correctional facility if the judge conducts a departure hearing and finds
38 substantial and compelling reasons to impose a departure sentence as
39 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a
40 departure sentence is imposed, offenders in this category may be
41 committed to a juvenile correctional facility for a minimum term of six
42 months and up to a maximum term of 18 months. The aftercare term for
43 this offender is set at a minimum term of six months and up to a maximum

1 term of 12 months.

2 (C) The chronic offender III, escalating misdemeanor is defined as
3 an offender adjudicated as a juvenile offender for an offense:

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

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

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

15 (iv) which, if committed by an adult, would constitute one present
16 drug severity level 4 felony adjudication and two prior drug severity level
17 4 or 5 felony adjudications and two placement failures;

18 (v) committed on or after July 1, 2012, which, if committed by an
19 adult on or after July 1, 2012, would constitute one present drug severity
20 level 5 felony adjudication and either two prior misdemeanor adjudications
21 or one prior person or nonperson felony adjudication and two placement
22 failures; or

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

27 Offenders in this category may only be committed to a juvenile
28 correctional facility if the judge conducts a departure hearing and finds
29 substantial and compelling reasons to impose a departure sentence as
30 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a
31 departure sentence is imposed, offenders in this category may be
32 committed to a juvenile correctional facility for a minimum term of three
33 months and up to a maximum term of six months. The aftercare term for
34 this offender is set at a minimum term of three months and up to a
35 maximum term of six months.

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

38 (A) Subject to the limitations in ~~subsection (a)~~ of K.S.A. 2014 Supp.
39 38-2366(a), and amendments thereto, commit the offender directly to a
40 juvenile correctional facility for a minimum term of three months and up
41 to a maximum term of six months. The aftercare term for this offender
42 shall be a minimum of two months and a maximum of six months, or the
43 length of the aftercare originally ordered, whichever is longer.

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

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

4 (ii) Order the offender to serve a period of sanctions pursuant to
5 ~~subsection (f) of K.S.A. 2014 Supp. 38-2361(g)~~, and amendments thereto.

6 (iii) Revoke or restrict the juvenile's driving privileges as described in
7 ~~subsection (e) of K.S.A. 2014 Supp. 38-2361(c)~~, and amendments thereto.

8 (C) Discharge the offender from the custody of the ~~commissioner~~
9 **secretary of corrections**, release the ~~commissioner~~ **secretary of**
10 **corrections** from further responsibilities in the case and enter any other
11 appropriate orders.

12 (b) As used in this section:

13 (1) "Placement failure" means a juvenile offender in the custody of
14 the ~~juvenile justice authority~~ **secretary of corrections** has significantly
15 failed the terms of conditional release or has been placed out-of-home in a
16 community placement accredited by the ~~commissioner~~ **secretary of**
17 **corrections** and has significantly violated the terms of that placement or
18 violated the terms of probation.

19 (2) "Adjudication" includes out-of-state juvenile adjudications. An
20 out-of-state offense, which if committed by an adult would constitute the
21 commission of a felony or misdemeanor, shall be classified as either a
22 felony or a misdemeanor according to the adjudicating jurisdiction. If an
23 offense which if committed by an adult would constitute the commission
24 of a felony is a felony in another state, it will be deemed a felony in
25 Kansas. The state of Kansas shall classify the offense, which if committed
26 by an adult would constitute the commission of a felony or misdemeanor,
27 as person or nonperson. In designating such offense as person or
28 nonperson, reference to comparable offenses shall be made. If the state of
29 Kansas does not have a comparable offense, the out-of-state adjudication
30 shall be classified as a nonperson offense.

31 (c) All appropriate community placement options shall have been
32 exhausted before a chronic offender III, escalating misdemeanor shall be
33 placed in a juvenile correctional facility. A court finding shall be made
34 acknowledging that appropriate community placement options have been
35 pursued and no such option is appropriate.

36 (d) The ~~commissioner~~ **secretary of corrections** shall work with the
37 community to provide on-going support and incentives for the
38 development of additional community placements to ensure that the
39 chronic offender III, escalating misdemeanor sentencing category is not
40 frequently utilized.

41 (e) Any juvenile offender committed to a juvenile correctional facility
42 who is adjudicated for an offense committed while such juvenile was
43 committed to a juvenile correctional facility, may be adjudicated to serve a

1 consecutive term of commitment in a juvenile correctional facility.

2 *{Sec. 4. K.S.A. 2014 Supp. 38-2366 is hereby repealed.}*

3 *Sec. ~~3~~ {5.} {On and after July 1, 2015,}* K.S.A. 2014 Supp. 38-2361
4 and 38-2369 are hereby repealed.

5 *Sec. ~~4~~ {6.}* This act shall take effect and be in force from and after its
6 publication in the ~~statute book~~ *{Kansas register}*.