

HOUSE BILL No. 2787

By Committee on Appropriations

3-19

1 AN ACT concerning children and minors; relating to crisis intervention;
2 creating juvenile crisis intervention centers; amending K.S.A. 2017
3 Supp. 38-2231, 38-2232, 38-2242, 38-2243, 38-2330 and 75-52,164
4 and repealing the existing sections.

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

7 New Section 1. (a) A juvenile crisis intervention center is a facility
8 that provides short-term observation, assessment, treatment and case
9 planning, and referral for any juvenile who is experiencing a mental health
10 crisis. Such centers shall:

11 (1) Address or ensure access to the broad range of services to meet
12 the needs of a juvenile admitted to the center, including, but not limited to,
13 medical, psychiatric, psychological, social and educational services;

14 (2) not include construction features designed to physically restrict
15 the movements and activities of juveniles, but shall have a design,
16 structure, interior and exterior environment, and furnishings to promote a
17 safe, comfortable and therapeutic environment for juveniles admitted to
18 the center;

19 (3) implement written policies and procedures that include the use of
20 a combination of supervision, inspection and accountability to promote
21 safe and orderly operations; and

22 (4) implement written policies and procedures for staff monitoring of
23 all center entrances and exits.

24 (b) A juvenile crisis intervention center shall provide treatment to
25 juveniles admitted to such center, as appropriate while admitted.

26 (c) A juvenile crisis intervention center may be on the same premises
27 as that of another licensed facility. If the juvenile crisis intervention center
28 is on the same premises as that of another licensed facility, the living unit
29 of the juvenile crisis intervention center shall be maintained in a separate,
30 self-contained unit. No juvenile crisis intervention center shall be in a city
31 or county jail or a juvenile detention facility.

32 (d) (1) A juvenile may be admitted to a juvenile crisis intervention
33 center when:

34 (A) The head of such center determines such juvenile is in need of
35 treatment and likely to cause harm to self or others;

36 (B) a qualified mental health professional from a community mental

1 health center has given written authorization for such juvenile to be
2 admitted to a juvenile crisis intervention center; and

3 (C) no other more appropriate treatment services are available and
4 accessible to the juvenile at the time of admission.

5 (2) A juvenile may be admitted to a juvenile crisis intervention center
6 for not more than 30 days. A parent with legal custody or legal guardian of
7 a juvenile placed in a juvenile crisis intervention center may remove such
8 juvenile from the center at any time. If the removal may cause the juvenile
9 to become a child in need of care pursuant to K.S.A. 2017 Supp. 38-
10 2202(d), and amendments thereto, the head of a juvenile crisis intervention
11 center may report such concerns to the department for children and
12 families or law enforcement or may request the county or district attorney
13 to initiate proceedings pursuant to the revised Kansas code for care of
14 children. If the head of a juvenile crisis intervention center determines the
15 most appropriate action is to request the county or district attorney to
16 initiate proceedings pursuant to the revised Kansas code for care of
17 children, the head of such center shall make such request and shall keep
18 such juvenile in the center for an additional 24-hour period to initiate the
19 appropriate proceedings.

20 (3) When a juvenile is released from a juvenile crisis intervention
21 center, the community mental health center where the juvenile is expected to
22 be discharged shall be involved with discharge planning. Within seven
23 days prior to the discharge of a juvenile, the head of the juvenile crisis
24 intervention center shall give written notice of the date and time of the
25 discharge to the patient, community mental health center where the
26 juvenile is expected to be discharged, and the patient's parent, custodian or
27 legal guardian.

28 (e) (1) No state agency shall administer or reimburse state medicaid
29 services to any juvenile admitted to a juvenile crisis intervention center
30 through a managed care delivery system pursuant to a waiver granted by
31 the United States centers for medicare and medicaid services under section
32 1115 or 1915 of the federal social security act, or any combination thereof.
33 Any services provided to a juvenile in a juvenile crisis intervention center
34 that qualify for medicaid reimbursement under state or federal law shall be
35 reimbursed at a fee-for-service rate allowed by the United States centers
36 for medicare and medicaid services.

37 (2) Nothing in this subsection shall prohibit the department of health
38 and environment from administering or reimbursing state medicaid
39 services to any juvenile admitted to a juvenile crisis intervention center
40 pursuant to a waiver granted under section 1915(c) of the federal social
41 security act, provided that such services are not administered through a
42 managed care delivery system.

43 (3) Nothing in this subsection shall prohibit the department of health

1 and environment from reimbursing any state medicaid services that qualify
2 for reimbursement and that are provided to a juvenile admitted to a
3 juvenile crisis intervention center, subject to the limitations of paragraph
4 (1).

5 (4) Nothing in this subsection shall impair or otherwise affect the
6 validity of any contract in existence on July 1, 2018, between a managed
7 care organization and the department of health and environment to provide
8 state medicaid services.

9 (5) On or before January 1, 2019, the secretary of health and
10 environment shall submit to the United States centers for medicare and
11 medicaid services any approval request necessary to implement this
12 subsection.

13 (f) The secretary for children and families, in consultation with the
14 attorney general, shall promulgate rules and regulations to implement the
15 provisions of this section on or before January 1, 2019.

16 (g) The secretary for children and families shall annually report
17 information on outcomes of juveniles admitted into juvenile crisis
18 intervention centers to the joint committee on corrections and juvenile
19 justice oversight, the corrections and juvenile justice committee of the
20 house of representatives and the judiciary committee of the senate. Such
21 report shall include:

22 (1) The number of admissions, releases and the lengths of stay for
23 juveniles admitted to juvenile crisis intervention centers;

24 (2) services provided to juveniles admitted;

25 (3) needs of juveniles admitted determined by evidence-based
26 assessment; and

27 (4) success and recidivism rates, including information on the
28 reduction of involvement of the child welfare system and juvenile justice
29 system with the juvenile.

30 (h) The secretary of corrections may enter into memorandums of
31 agreement with other cabinet agencies to provide funding, not to exceed
32 \$2,000,000 annually, from the evidence-based programs account of the
33 state general fund or other available appropriations for juvenile crisis
34 intervention services.

35 (i) For the purposes of this section:

36 (1) "Juvenile" means a person who is less than 18 years of age;

37 (2) "likely to cause harm to self or others" means that a juvenile, by
38 reason of the juvenile's mental disorder is likely, in the reasonably
39 foreseeable future, to cause substantial physical injury or physical abuse to
40 self or others or substantial damage to another's property, as evidenced by
41 behavior threatening, attempting or causing such injury, abuse or damage;

42 (3) "treatment" means any service intended to promote the mental
43 health of the patient and rendered by a qualified mental health

1 professional, licensed or certified by the state to provide such service as an
2 independent practitioner or under the supervision of such practitioner; and

3 (4) "qualified mental health professional" means a physician or
4 psychologist who is employed by a participating mental health center or
5 who is providing services as a physician or psychologist under a contract
6 with a participating mental health center, a licensed masters level
7 psychologist, a licensed clinical psychotherapist, a licensed marriage and
8 family therapist, a licensed clinical marriage and family therapist, a
9 licensed professional counselor, a licensed clinical professional counselor,
10 a licensed specialist social worker or a licensed master social worker or a
11 registered nurse who has a specialty in psychiatric nursing, who is
12 employed by a participating mental health center and who is acting under
13 the direction of a physician or psychologist who is employed by, or under
14 contract with, a participating mental health center.

15 (j) This section shall be part of and supplemental to article 5 of
16 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

17 Sec. 2. K.S.A. 2017 Supp. 38-2231 is hereby amended to read as
18 follows: 38-2231. (a) A law enforcement officer or court services officer
19 shall take a child under 18 years of age into custody when:

20 (1) The law enforcement officer or court services officer has a court
21 order commanding that the child be taken into custody as a child in need
22 of care; or

23 (2) the law enforcement officer or court services officer has probable
24 cause to believe that a court order commanding that the child be taken into
25 custody as a child in need of care has been issued in this state or in another
26 jurisdiction.

27 (b) A law enforcement officer shall take a child under 18 years of age
28 into custody when the officer:

29 (1) Reasonably believes the child will be harmed if not immediately
30 removed from the place or residence where the child has been found;

31 (2) has probable cause to believe that the child is a runaway or a
32 missing person or a verified missing person entry for the child can be
33 found in the national crime information center missing person system;~~or~~

34 (3) reasonably believes the child is a victim of human trafficking,
35 aggravated human trafficking or commercial sexual exploitation of a
36 child; or

37 (4) *reasonably believes the child is experiencing a mental health*
38 *crisis and is likely to cause harm to self or others.*

39 (c) (1) If a person provides shelter to a child whom the person knows
40 is a runaway, such person shall promptly report the child's location either
41 to a law enforcement agency or to the child's parent or other custodian.

42 (2) If a person reports a runaway's location to a law enforcement
43 agency pursuant to this section and a law enforcement officer of the

1 agency has reasonable grounds to believe that it is in the child's best
 2 interests, the child may be allowed to remain in the place where shelter is
 3 being provided, subject to subsection (b), in the absence of a court order to
 4 the contrary. If the child is allowed to so remain, the law enforcement
 5 agency shall promptly notify the secretary of the child's location and
 6 circumstances.

7 (d) Except as provided in subsections (a) and (b), a law enforcement
 8 officer may temporarily detain and assume temporary custody of any child
 9 subject to compulsory school attendance, pursuant to K.S.A. 72-3120, and
 10 amendments thereto, during the hours school is actually in session and
 11 shall deliver the child pursuant to K.S.A. 2017 Supp. 38-2232(g), and
 12 amendments thereto.

13 Sec. 3. K.S.A. 2017 Supp. 38-2232 is hereby amended to read as
 14 follows: 38-2232. (a) (1) To the extent possible, when any law
 15 enforcement officer takes into custody a child under the age of 18 years
 16 without a court order, the child shall ~~forthwith~~ promptly be delivered to the
 17 custody of the child's parent or other custodian unless there are reasonable
 18 grounds to believe that such action would not be in the best interests of the
 19 child.

20 (2) Except as provided in subsection (b), if the child is not delivered
 21 to the custody of the child's parent or other custodian, the child shall
 22 ~~forthwith~~ promptly be delivered to a:

23 (A) (i) Shelter facility designated by the court;;

24 (ii) court services officer;;

25 (iii) juvenile intake and assessment worker;;

26 (iv) licensed attendant care center;

27 (v) *juvenile crisis intervention center after written authorization by a*
 28 *community mental health center; or*

29 (vi) other person~~or~~;

30 (B) if the child is 15 years of age or younger, ~~or~~ to a facility or person
 31 designated by the secretary; or

32 (C) if the child is 16 or 17 years of age ~~if and~~ the child has no
 33 identifiable parental or family resources or shows signs of physical,
 34 mental, emotional or sexual abuse, to a facility or person designated by the
 35 secretary.

36 (3) If, after delivery of the child to a shelter facility, the person in
 37 charge of the shelter facility at that time and the law enforcement officer
 38 determine that the child will not remain in the shelter facility and if the
 39 child is presently alleged, but not yet adjudicated, to be a child in need of
 40 care solely pursuant to ~~subsection (d)(9) or (d)(10) of~~ K.S.A. 2017 Supp.
 41 38-2202(d)(9) or (d)(10), and amendments thereto, the law enforcement
 42 officer shall deliver the child to a juvenile detention facility or other secure
 43 facility, designated by the court, where the child shall be detained for not

1 more than 24 hours, excluding Saturdays, Sundays, legal holidays, and
2 days on which the office of the clerk of the court is not accessible.

3 (4) No child taken into custody pursuant to this code shall be placed
4 in a juvenile detention facility or other secure facility, except as authorized
5 by this section and by K.S.A. 2017 Supp. 38-2242, 38-2243 and 38-2260,
6 and amendments thereto.

7 (5) It shall be the duty of the law enforcement officer to furnish to the
8 county or district attorney, without unnecessary delay, all the information
9 in the possession of the officer pertaining to the child, the child's parents or
10 other persons interested in or likely to be interested in the child and all
11 other facts and circumstances which caused the child to be taken into
12 custody.

13 (b) (1) When any law enforcement officer takes into custody any
14 child as provided in ~~subsection (b)(2) of~~ K.S.A. 2017 Supp. 38-2231(b)(2),
15 and amendments thereto, proceedings shall be initiated in accordance with
16 the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et
17 seq., and amendments thereto, or K.S.A. 2017 Supp. 38-1008, and
18 amendments thereto, when effective. Any child taken into custody
19 pursuant to the interstate compact on juveniles may be detained in a
20 juvenile detention facility or other secure facility.

21 (2) When any law enforcement officer takes into custody any child as
22 provided in ~~subsection (b)(3) of~~ K.S.A. 2017 Supp. 38-2231(b)(3), and
23 amendments thereto, the law enforcement officer shall place the child in
24 protective custody and may deliver the child to a staff secure facility. The
25 law enforcement officer shall contact the department for children and
26 families to begin an assessment to determine safety, placement and
27 treatment needs for the child. Such child shall not be placed in a juvenile
28 detention facility or other secure facility, except as authorized by this
29 section and by K.S.A. 2017 Supp. 38-2242, 38-2243 and 38-2260, and
30 amendments thereto.

31 (3) *When any law enforcement officer takes into custody any child as*
32 *provided in K.S.A. 2017 Supp. 38-2231(b)(4), and amendments thereto,*
33 *the law enforcement officer shall place the child in protective custody and*
34 *may deliver the child to a juvenile crisis intervention center after written*
35 *authorization by a community mental health center. Such child shall not be*
36 *placed in a juvenile detention facility or other secure facility.*

37 (c) Whenever a child under the age of 18 years is taken into custody
38 by a law enforcement officer without a court order and is thereafter placed
39 as authorized by subsection (a), the facility or person shall, upon written
40 application of the law enforcement officer, have physical custody and
41 provide care and supervision for the child. The application shall state:

42 (1) The name and address of the child, if known;

43 (2) the names and addresses of the child's parents or nearest relatives

1 and persons with whom the child has been residing, if known; and

2 (3) the officer's belief that the child is a child in need of care and that
3 there are reasonable grounds to believe that the circumstances or condition
4 of the child is such that the child would be harmed unless placed in the
5 immediate custody of the shelter facility or other person.

6 (d) A copy of the application shall be furnished by the facility or
7 person receiving the child to the county or district attorney without
8 unnecessary delay.

9 (e) The shelter facility or other person designated by the court who
10 has custody of the child pursuant to this section shall discharge the child
11 not later than 72 hours following admission, excluding Saturdays,
12 Sundays, legal holidays, and days on which the office of the clerk of the
13 court is not accessible, unless a court has entered an order pertaining to
14 temporary custody or release.

15 (f) In absence of a court order to the contrary, the county or district
16 attorney or the placing law enforcement agency shall have the authority to
17 direct the release of the child at any time.

18 (g) When any law enforcement officer takes into custody any child as
19 provided in ~~subsection (d) of~~ K.S.A. 2017 Supp. 38-2231(d), and
20 amendments thereto, the child shall ~~forthwith~~ promptly be delivered to the
21 school in which the child is enrolled, any location designated by the school
22 in which the child is enrolled or the child's parent or other custodian.

23 Sec. 4. K.S.A. 2017 Supp. 38-2242 is hereby amended to read as
24 follows: 38-2242. (a) The court, upon verified application, may issue ex
25 parte an order directing that a child be held in protective custody and, if
26 the child has not been taken into custody, an order directing that the child
27 be taken into custody. The application shall state for each child:

28 (1) The applicant's belief that the child is a child in need of care;

29 (2) that the child is likely to sustain harm if not immediately removed
30 from the home;

31 (3) that allowing the child to remain in the home is contrary to the
32 welfare of the child; and

33 (4) the facts relied upon to support the application, including efforts
34 known to the applicant to maintain the family unit and prevent the
35 unnecessary removal of the child from the child's home, or the specific
36 facts supporting that an emergency exists which threatens the safety of the
37 child.

38 (b) (1) The order of protective custody may be issued only after the
39 court has determined there is probable cause to believe the allegations in
40 the application are true. The order shall remain in effect until the
41 temporary custody hearing provided for in K.S.A. 2017 Supp. 38-2243,
42 and amendments thereto, unless earlier rescinded by the court.

43 (2) No child shall be held in protective custody for more than 72

1 hours, excluding Saturdays, Sundays, legal holidays, and days on which
2 the office of the clerk of the court is not accessible, unless within the 72-
3 hour period a determination is made as to the necessity for temporary
4 custody in a temporary custody hearing. The time spent in custody
5 pursuant to K.S.A. 2017 Supp. 38-2232, and amendments thereto, shall be
6 included in calculating the 72-hour period. Nothing in this subsection shall
7 be construed to mean that the child must remain in protective custody for
8 72 hours. If a child is in the protective custody of the secretary, the
9 secretary shall allow at least one supervised visit between the child and the
10 parent or parents within such time period as the child is in protective
11 custody. The court may prohibit such supervised visit if the court
12 determines it is not in the best interest of the child.

13 (c) (1) Whenever the court determines the necessity for an order of
14 protective custody, the court may place the child in the protective custody
15 of:

16 (A) A parent or other person having custody of the child and may
17 enter a restraining order pursuant to subsection (e);

18 (B) a person, other than the parent or other person having custody,
19 who shall not be required to be licensed under article 5 of chapter 65 of the
20 Kansas Statutes Annotated, and amendments thereto;

21 (C) a youth residential facility;

22 (D) a shelter facility;

23 (E) a staff secure facility, notwithstanding any other provision of law,
24 if the child has been subjected to human trafficking or aggravated human
25 trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments
26 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
27 2017 Supp. 21-6422, and amendments thereto, or the child committed an
28 act which, if committed by an adult, would constitute a violation of K.S.A.
29 2017 Supp. 21-6419, and amendments thereto;

30 (F) *after written authorization by a community mental health center,*
31 *a juvenile crisis intervention center as described in section 1, and*
32 *amendments thereto; or*

33 ~~(F)~~(G) the secretary, if the child is 15 years of age or younger, or 16
34 or 17 years of age if the child has no identifiable parental or family
35 resources or shows signs of physical, mental, emotional or sexual abuse.

36 (2) If the secretary presents the court with a plan to provide services
37 to a child or family which the court finds will assure the safety of the
38 child, the court may only place the child in the protective custody of the
39 secretary until the court finds the services are in place. The court shall
40 have the authority to require any person or entity agreeing to participate in
41 the plan to perform as set out in the plan. When the child is placed in the
42 protective custody of the secretary, the secretary shall have the
43 discretionary authority to place the child with a parent or to make other

1 suitable placement for the child. When the child is placed in the temporary
2 custody of the secretary and the child has been subjected to human
3 trafficking or aggravated human trafficking, as defined by K.S.A. 2017
4 Supp. 21-5426, and amendments thereto, or commercial sexual
5 exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and
6 amendments thereto, or the child committed an act which, if committed by
7 an adult, would constitute a violation of K.S.A. 2017 Supp. 21-6419, and
8 amendments thereto, the secretary shall have the discretionary authority to
9 place the child in a staff secure facility, notwithstanding any other
10 provision of law. When the child is presently alleged, but not yet
11 adjudicated, to be a child in need of care solely pursuant to ~~subsection (d)~~
12 ~~(9) or (d)(10)~~ of K.S.A. 2017 Supp. 38-2202(d)(9) or (d)(10), and
13 amendments thereto, the child may be placed in a juvenile detention
14 facility or other secure facility pursuant to an order of protective custody
15 for a period of not to exceed 24 hours, excluding Saturdays, Sundays, legal
16 holidays, and days on which the office of the clerk of the court is not
17 accessible.

18 (d) The order of protective custody shall be served pursuant to
19 ~~subsection (a)~~ of K.S.A. 2017 Supp. 38-2237(a), and amendments thereto,
20 on the child's parents and any other person having legal custody of the
21 child. The order shall prohibit the removal of the child from the court's
22 jurisdiction without the court's permission.

23 (e) If the court issues an order of protective custody, the court may
24 also enter an order restraining any alleged perpetrator of physical, sexual,
25 mental or emotional abuse of the child from residing in the child's home;
26 visiting, contacting, harassing or intimidating the child, other family
27 member or witness; or attempting to visit, contact, harass or intimidate the
28 child, other family member or witness. Such restraining order shall be
29 served by personal service pursuant to ~~subsection (a)~~ of K.S.A. 2017 Supp.
30 38-2237(a), and amendments thereto, on any alleged perpetrator to whom
31 the order is directed.

32 (f) (1) The court shall not enter the initial order removing a child
33 from the custody of a parent pursuant to this section unless the court first
34 finds probable cause that: (A) (i) The child is likely to sustain harm if not
35 immediately removed from the home;

36 (ii) allowing the child to remain in home is contrary to the welfare of
37 the child; or

38 (iii) immediate placement of the child is in the best interest of the
39 child; and

40 (B) reasonable efforts have been made to maintain the family unit and
41 prevent the unnecessary removal of the child from the child's home or that
42 an emergency exists which threatens the safety to the child.

43 (2) Such findings shall be included in any order entered by the court.

1 If the child is placed in the custody of the secretary, the court shall provide
2 the secretary with a written copy of any orders entered upon making the
3 order.

4 Sec. 5. K.S.A. 2017 Supp. 38-2243 is hereby amended to read as
5 follows: 38-2243. (a) Upon notice and hearing, the court may issue an
6 order directing who shall have temporary custody and may modify the
7 order during the pendency of the proceedings as will best serve the child's
8 welfare.

9 (b) A hearing pursuant to this section shall be held within 72 hours,
10 excluding Saturdays, Sundays, legal holidays, and days on which the
11 office of the clerk of the court is not accessible, following a child having
12 been taken into protective custody.

13 (c) Whenever it is determined that a temporary custody hearing is
14 required, the court shall immediately set the time and place for the hearing.
15 Notice of a temporary custody hearing shall be given to all parties and
16 interested parties.

17 (d) Notice of the temporary custody hearing shall be given at least 24
18 hours prior to the hearing. The court may continue the hearing to afford the
19 24 hours prior notice or, with the consent of the party or interested party,
20 proceed with the hearing at the designated time. If an order of temporary
21 custody is entered and the parent or other person having custody of the
22 child has not been notified of the hearing, did not appear or waive
23 appearance and requests a rehearing, the court shall rehear the matter
24 without unnecessary delay.

25 (e) Oral notice may be used for giving notice of a temporary custody
26 hearing where there is insufficient time to give written notice. Oral notice
27 is completed upon filing a certificate of oral notice.

28 (f) The court may enter an order of temporary custody after
29 determining there is probable cause to believe that the: (1) Child is
30 dangerous to self or to others; (2) child is not likely to be available within
31 the jurisdiction of the court for future proceedings; (3) health or welfare of
32 the child may be endangered without further care; (4) child has been
33 subjected to human trafficking or aggravated human trafficking, as defined
34 by K.S.A. 2017 Supp. 21-5426, and amendments thereto, or commercial
35 sexual exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422,
36 and amendments thereto; (5) *child is experiencing a mental health crisis
37 and is in need of treatment*; or ~~(5)~~ (6) child committed an act which, if
38 committed by an adult, would constitute a violation of K.S.A. 2017 Supp.
39 21-6419, and amendments thereto.

40 (g) (1) Whenever the court determines the necessity for an order of
41 temporary custody the court may place the child in the temporary custody
42 of:

43 (A) A parent or other person having custody of the child and may

1 enter a restraining order pursuant to subsection (h);

2 (B) a person, other than the parent or other person having custody,
3 who shall not be required to be licensed under article 5 of chapter 65 of the
4 Kansas Statutes Annotated, and amendments thereto;

5 (C) a youth residential facility;

6 (D) a shelter facility;

7 (E) a staff secure facility, notwithstanding any other provision of law,
8 if the child has been subjected to human trafficking or aggravated human
9 trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments
10 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
11 2017 Supp. 21-6422, and amendments thereto, or the child committed an
12 act which, if committed by an adult, would constitute a violation of K.S.A.
13 2017 Supp. 21-6419, and amendments thereto;

14 (F) *after written authorization by a community mental health center,*
15 *a juvenile crisis intervention center, as described in section 1, and*
16 *amendments thereto; or*

17 ~~(F)~~(G) the secretary, if the child is 15 years of age or younger, or 16
18 or 17 years of age if the child has no identifiable parental or family
19 resources or shows signs of physical, mental, emotional or sexual abuse.

20 (2) If the secretary presents the court with a plan to provide services
21 to a child or family which the court finds will assure the safety of the
22 child, the court may only place the child in the temporary custody of the
23 secretary until the court finds the services are in place. The court shall
24 have the authority to require any person or entity agreeing to participate in
25 the plan to perform as set out in the plan. When the child is placed in the
26 temporary custody of the secretary, the secretary shall have the
27 discretionary authority to place the child with a parent or to make other
28 suitable placement for the child. When the child is placed in the temporary
29 custody of the secretary and the child has been subjected to human
30 trafficking or aggravated human trafficking, as defined by K.S.A. 2017
31 Supp. 21-5426, and amendments thereto, or commercial sexual
32 exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and
33 amendments thereto, or the child committed an act which, if committed by
34 an adult, would constitute a violation of K.S.A. 2017 Supp. 21-6419, and
35 amendments thereto, the secretary shall have the discretionary authority to
36 place the child in a staff secure facility, notwithstanding any other
37 provision of law. When the child is presently alleged, but not yet
38 adjudicated to be a child in need of care solely pursuant to ~~subsection (d)~~
39 ~~(9) or (d)(10)~~ of K.S.A. 2017 Supp. 38-2202(d)(9) or (d)(10), and
40 amendments thereto, the child may be placed in a juvenile detention
41 facility or other secure facility, but the total amount of time that the child
42 may be held in such facility under this section and K.S.A. 2017 Supp. 38-
43 2242, and amendments thereto, shall not exceed 24 hours, excluding

1 Saturdays, Sundays, legal holidays, and days on which the office of the
2 clerk of the court is not accessible. The order of temporary custody shall
3 remain in effect until modified or rescinded by the court or an adjudication
4 order is entered but not exceeding 60 days, unless good cause is shown
5 and stated on the record.

6 (h) If the court issues an order of temporary custody, the court may
7 also enter an order restraining any alleged perpetrator of physical, sexual,
8 mental or emotional abuse of the child from residing in the child's home;
9 visiting, contacting, harassing or intimidating the child; or attempting to
10 visit, contact, harass or intimidate the child, other family members or
11 witnesses. Such restraining order shall be served by personal service
12 pursuant to ~~subsection (a)~~ of K.S.A. 2017 Supp. 38-2237(a), and
13 amendments thereto, on any alleged perpetrator to whom the order is
14 directed.

15 (i) (1) The court shall not enter the initial order removing a child from
16 the custody of a parent pursuant to this section unless the court first finds
17 probable cause that: (A) (i) The child is likely to sustain harm if not
18 immediately removed from the home;

19 (ii) allowing the child to remain in home is contrary to the welfare of
20 the child; or

21 (iii) immediate placement of the child is in the best interest of the
22 child; and

23 (B) reasonable efforts have been made to maintain the family unit and
24 prevent the unnecessary removal of the child from the child's home or that
25 an emergency exists which threatens the safety to the child.

26 (2) Such findings shall be included in any order entered by the court.
27 If the child is placed in the custody of the secretary, upon making the order
28 the court shall provide the secretary with a written copy.

29 (j) If the court enters an order of temporary custody that provides for
30 placement of the child with a person other than the parent, the court shall
31 make a child support determination pursuant to K.S.A. 2017 Supp. 38-
32 2277, and amendments thereto.

33 Sec. 6. K.S.A. 2017 Supp. 38-2330 is hereby amended to read as
34 follows: 38-2330. (a) A law enforcement officer may take a juvenile into
35 custody when:

36 (1) Any offense has been or is being committed in the officer's view;

37 (2) the officer has a warrant commanding that the juvenile be taken
38 into custody;

39 (3) the officer has probable cause to believe that a warrant or order
40 commanding that the juvenile be taken into custody has been issued in this
41 state or in another jurisdiction for an act committed therein;

42 (4) the officer has probable cause to believe that the juvenile is
43 committing or has committed an act which, if committed by an adult,

1 would constitute:

2 (A) A felony; or

3 (B) a misdemeanor and: (i) The juvenile will not be apprehended or
 4 evidence of the offense will be irretrievably lost unless the juvenile is
 5 immediately taken into custody; or (ii) the juvenile may cause injury to
 6 self or others or damage to property or may be injured unless immediately
 7 taken into custody;

8 (5) the officer has probable cause to believe that the juvenile has
 9 violated an order for electronic monitoring as a term of probation; or

10 (6) the officer receives a written statement pursuant to subsection (c).

11 (b) A court services officer, juvenile community corrections officer or
 12 other person authorized to supervise juveniles subject to this code, may
 13 take a juvenile into custody when: (1) There is a warrant commanding that
 14 the juvenile be taken into custody; or (2) the officer has probable cause to
 15 believe that a warrant or order commanding that the juvenile be taken into
 16 custody has been issued in this state or in another jurisdiction for an act
 17 committed therein.

18 (c) Any court services officer, juvenile community corrections officer
 19 or other person authorized to supervise juveniles subject to this code, may
 20 request a warrant by giving the court a written statement setting forth that
 21 the juvenile, in the judgment of the court services officer, juvenile
 22 community corrections officer or other person authorized to supervise
 23 juveniles subject to this code:

24 (1) (A) Has violated the condition of the juvenile's conditional release
 25 from detention or probation, for the third or subsequent time; and

26 (B) poses a significant risk of physical harm to another or damage to
 27 property; or

28 (2) has absconded from supervision.

29 (d) (1) A juvenile taken into custody by a law enforcement officer or
 30 other person authorized pursuant to subsection (b) shall be brought without
 31 unnecessary delay to the custody of the juvenile's parent or other
 32 custodian, unless there are reasonable grounds to believe that such action
 33 would not be in the best interests of the child or would pose a risk to
 34 public safety or property.

35 (2) If the juvenile cannot be delivered to the juvenile's parent or
 36 custodian, the officer may:

37 (A) Issue a notice to appear pursuant to subsection (g); ~~or~~

38 (B) contact or deliver the juvenile to an intake and assessment worker
 39 for completion of the intake and assessment process pursuant to K.S.A.
 40 75-7023, and amendments thereto; or

41 (C) *if the juvenile is determined to not be detention eligible based on*
 42 *a standardized detention risk assessment tool, deliver a juvenile to a*
 43 *juvenile crisis intervention center; as described in section 1, and*

1 *amendments thereto, after written authorization by a community mental*
2 *health center.*

3 (3) It shall be the duty of the officer to furnish the county or district
4 attorney and the juvenile intake and assessment worker if the officer has
5 delivered the juvenile to the worker or issued a notice to appear consistent
6 with subsection (g), with all of the information in the officer's possession
7 pertaining to the juvenile, the juvenile's parent or other persons interested
8 in or likely to be interested in the juvenile and all other facts and
9 circumstances which caused the juvenile to be arrested or taken into
10 custody.

11 (e) In the absence of a court order to the contrary, the court or
12 officials designated by the court, the county or district attorney or the law
13 enforcement agency taking a juvenile into custody shall direct the release
14 prior to the time specified by K.S.A. 2017 Supp. 38-2343(a), and
15 amendments thereto. In addition, pursuant to K.S.A. 75-7023 and K.S.A.
16 2017 Supp. 38-2346, and amendments thereto, a juvenile intake and
17 assessment worker shall direct the release of a juvenile prior to a detention
18 hearing after the completion of the intake and assessment process.

19 (f) Whenever a person 18 years of age or more is taken into custody
20 by a law enforcement officer for an alleged offense which was committed
21 prior to the time the person reached the age of 18, the officer shall notify
22 and refer the matter to the court for proceedings pursuant to this code,
23 except that the provisions of this code relating to detention hearings shall
24 not apply to that person. If such person is eligible for detention, and all
25 suitable alternatives to detention have been exhausted, the person shall be
26 detained in jail. Unless the law enforcement officer took the person into
27 custody pursuant to a warrant issued by the court and the warrant specifies
28 the amount of bond or indicates that the person may be released on
29 personal recognizance, the person shall be taken before the court of the
30 county where the alleged act took place or, at the request of the person, the
31 person shall be taken, without delay, before the nearest court. The court
32 shall fix the terms and conditions of an appearance bond upon which the
33 person may be released from custody. The provisions of article 28 of
34 chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and
35 amendments thereto, relating to appearance bonds and review of
36 conditions and release shall be applicable to appearance bonds provided
37 for in this section.

38 (g) (1) Whenever a law enforcement officer detains any juvenile and
39 such juvenile is not immediately taken to juvenile intake and assessment
40 services, the officer may serve upon such juvenile a written notice to
41 appear. Such notice to appear shall contain the name and address of the
42 juvenile detained, the crime charged and the location and phone number of
43 the juvenile intake and assessment services office where the juvenile will

1 need to appear with a parent or guardian.

2 (2) The juvenile intake and assessment services office specified in
3 such notice to appear must be contacted by the juvenile or a parent or
4 guardian no more than 48 hours after such notice is given, excluding
5 weekends and holidays.

6 (3) The juvenile detained, in order to secure release as provided in
7 this section, must give a written promise to call within the time specified
8 by signing the written notice prepared by the officer. The original notice
9 shall be retained by the officer and a copy shall be delivered to the juvenile
10 detained and that juvenile's parent or guardian if such juvenile is under 18
11 years of age. The officer shall then release the juvenile.

12 (4) The law enforcement officer shall cause to be filed, without
13 unnecessary delay, a complaint with juvenile intake and assessment
14 services in which a juvenile released pursuant to paragraph (3) is given
15 notice to appear, charging the crime stated in such notice. A copy shall also
16 be provided to the district or county attorney. If the juvenile released fails
17 to contact juvenile intake and assessment services as required in the notice
18 to appear, juvenile intake and assessment services shall notify the district
19 or county attorney.

20 (5) The notice to appear served pursuant to paragraph (1) and the
21 complaint filed pursuant to paragraph (4) may be provided to the juvenile
22 in a single citation.

23 Sec. 7. K.S.A. 2017 Supp. 75-52,164 is hereby amended to read as
24 follows: 75-52,164. (a) There is hereby established in the state treasury the
25 evidence-based programs account of the state general fund, which shall be
26 administered by the department of corrections. All expenditures from the
27 evidence-based programs account of the state general fund shall be for the
28 development and implementation of evidence-based community programs
29 and practices for juvenile offenders, *juveniles experiencing mental health*
30 *crisis* and their families by community supervision offices, including, but
31 not limited to, juvenile intake and assessment, court services—~~and~~,
32 community corrections *and juvenile crisis intervention centers*. All
33 expenditures from the evidence-based programs account of the state
34 general fund shall be made in accordance with appropriation acts upon
35 warrants of the director of accounts and reports issued pursuant to
36 vouchers approved by the secretary of corrections or the secretary's
37 designee.

38 (b) At least annually, throughout the year, the secretary of corrections
39 shall determine and certify to the director of accounts and reports the
40 amount in each account of the state general fund of a state agency that has
41 been determined by the secretary to be actual or projected cost savings as a
42 result of cost avoidance resulting from decreased reliance on incarceration
43 in the juvenile correctional facility and placement in youth residential

1 centers. The baseline shall be calculated on the cost of incarceration and
2 placement in fiscal year 2015.

3 (c) Upon receipt of a certification pursuant to subsection (b), the
4 director of accounts and reports shall transfer the amount certified
5 pursuant to subsection (b) from each account of the state general fund of a
6 state agency that has been determined by the secretary of corrections to be
7 actual or projected cost savings to the evidence-based programs account of
8 the state general fund.

9 (d) Prioritization of evidence-based programs account of the state
10 general fund moneys will be given to regions that demonstrate a high rate
11 of out-of-home placement of juvenile offenders per capita that have few
12 existing community-based alternatives.

13 (e) During fiscal years 2017 and 2018, the secretary of corrections
14 shall transfer an amount not to exceed \$8,000,000 from appropriated
15 department of corrections moneys from the state general fund or any
16 available special revenue fund or funds that are budgeted for the purposes
17 of facilitating the development and implementation of new community
18 placements in conjunction with the reduction in out-of-home placements.

19 (f) The evidence-based programs account of the state general fund
20 and any other moneys transferred pursuant to this section shall be used for
21 the purposes set forth in this section and for no other governmental
22 purposes. It is the intent of the legislature that the funds and the moneys
23 deposited in this fund shall remain intact and inviolate for the purposes set
24 forth in this section.

25 Sec. 8. K.S.A. 2017 Supp. 38-2231, 38-2232, 38-2242, 38-2243, 38-
26 2330 and 75-52,164 are hereby repealed.

27 Sec. 9. This act shall take effect and be in force from and after its
28 publication in the statute book.