

Juvenile Crisis Intervention Centers; Amendments to Revised Kansas Code for Care of Children; House Sub. for SB 179

House Sub. for SB 179 creates and amends law to establish juvenile crisis intervention centers (intervention centers) and procedures for admission of juveniles to such centers. The bill also makes additional amendments to the Revised Kansas Code for Care of Children (CINC Code) and the Newborn Infant Protection Act (Act) within the CINC Code.

Establishment of Intervention Centers

The bill creates law describing an intervention center as a facility that provides short-term observation, assessment, treatment, and case planning, and referral for any juvenile who is experiencing a mental health crisis and is likely to cause harm to self or others. The bill describes required parameters for intervention centers in several areas, including access to various services, construction and environmental features, and policies and procedures for operation and staff monitoring for intervention center entrances and exits.

The bill requires intervention centers to provide treatment to juveniles admitted to the centers, as appropriate while admitted.

An intervention center may be on the same premises as another licensed facility, but the living unit of the intervention center must be maintained in a separate, self-contained unit. An intervention center may not be located in a city or county jail or a juvenile detention facility.

A juvenile may be admitted to an intervention center when:

- The head of the center determines the juvenile is in need of treatment and is likely to cause harm to self or others;
- A qualified professional from a community mental health center (CMHC) has given written authorization for the juvenile to be admitted to an intervention center; and
- No other more appropriate treatment services are available and accessible to the juvenile at the time of admission.

A juvenile may be admitted to an intervention center for not more than 30 days, and a parent with legal custody or a legal guardian of the juvenile can remove the juvenile from the center at any time. If the removal could cause the juvenile to become a child in need of care pursuant to the CINC Code, the head of the intervention center may report such concerns to the Department for Children and Families (DCF) or may request the county or district attorney to initiate proceedings under the CINC Code. If the head of the intervention center determines such a request to the county or district attorney is the most appropriate action, the head of the intervention center shall make the request and keep the juvenile in the intervention center for an additional 24-hour period to initiate the appropriate proceedings.

Upon a juvenile's release from an intervention center, the managed care organization (MCO), if the juvenile is a Medicaid recipient, and the CMHC serving the area where the juvenile is being discharged must be involved with discharge planning. The head of the intervention center must give written notice of the date and time of discharge, within seven days prior to discharge, to the patient, the MCO (if the juvenile is a Medicaid recipient), the CMHC serving the area where the juvenile is being discharged, and the patient's parent, custodian, or legal guardian.

If a juvenile is a Medicaid recipient, upon admission to an intervention center, the bill requires the MCO to approve services as recommended by the head of the intervention center. Within 14 days after admission, the head of the intervention center must develop a plan of treatment for the juvenile in collaboration with the MCO.

The bill does not prohibit the Kansas Department of Health and Environment (KDHE) from administering or reimbursing state Medicaid services to any juvenile admitted to an intervention center pursuant to the waiver granted under Section 1915(c) of the federal Social Security Act, provided that such services are not administered through a managed care delivery system, or from reimbursing any state Medicaid services that qualify for reimbursement and that are provided to a juvenile admitted to an intervention center. The bill will not impair or otherwise affect the validity of any contract in existence on July 1, 2018, between an MCO and KDHE to provide state Medicaid services. On or before January 1, 2019, the Secretary of Health and Environment must submit to the Centers for Medicare and Medicaid Services (CMS) any approval request necessary to implement these provisions.

On or before January 1, 2019, the Secretary for Children and Families, in consultation with the Attorney General, must promulgate rules and regulations to implement the law created by the bill.

The Secretary for Children and Families must provide an annual report of information regarding outcomes of juveniles admitted into intervention centers to the Joint Committee on Corrections and Juvenile Justice Oversight, the House Committee on Corrections and Juvenile Justice, and the Senate Committee on Judiciary. The bill requires the report to include the number of admissions and releases and the lengths of stay for juveniles admitted to intervention centers; services provided to admitted juveniles; needs of admitted juveniles determined by evidence-based assessment; and success and recidivism rates, including information on the reduction of involvement of the child welfare system and juvenile justice system.

The Secretary of Corrections may enter into memorandums of agreement with other cabinet agencies to provide funding, not to exceed \$2,000,000 annually, from the Evidence-based Programs Account of the State General Fund (SGF) or other available appropriations for juvenile crisis intervention services.

The bill defines "juvenile" as a person less than 18 years of age. It also provides definitions of "head of a juvenile crisis intervention center," "likely to cause harm to self or others," "treatment," and "qualified mental health professional."

Amendments to Law

The bill amends various statutes to incorporate use of intervention centers.

CINC Code amendments. The bill amends the statute governing when a law enforcement officer (LEO) may take a child into custody to require an LEO to take a child under 18 years of age into custody when the LEO reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others.

The bill amends the statute governing delivery of a child taken into custody by an LEO to allow an LEO to deliver a child taken into custody without a court order to an intervention center after written authorization by a CMHC. The bill also non-substantively restructures the list of delivery alternatives in this section.

The bill requires, when an LEO takes a child into custody because the LEO reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others, the LEO place the child in protective custody. The LEO may deliver the child to an intervention center after written authorization by a CMHC, but the child may not be placed in a juvenile detention facility or other secure facility.

The bill amends the statutes governing *ex parte* protective custody orders and temporary custody orders to allow placement, after written authorization by a CMHC, with an intervention center. The circumstances justifying an entry of a temporary custody order are amended to include probable cause to believe the child is experiencing a mental health crisis and is in need of treatment.

Throughout the amended CINC Code statutes, the term “forthwith” is replaced with “promptly.”

Juvenile Justice Code amendment. The bill amends the statute in the Revised Kansas Juvenile Justice Code governing taking juveniles into custody to allow an officer, when a juvenile cannot be delivered to the juvenile’s parent or custodian, to (in addition to continuing options) deliver the juvenile to an intervention center, if the juvenile is determined to not be detention eligible based on a standardized detention risk assessment tool and is experiencing a mental health crisis, after written authorization by a CMHC.

Account amendments. The bill amends the statute establishing the Evidence-based Programs Account of the SGF to allow expenditures from the account for the development and implementation of evidence-based community programs and practices for juveniles experiencing mental health crises, including intervention centers.

Additional Amendments to CINC Code and the Newborn Infant Protection Act

In addition to the provisions related to juvenile crisis intervention centers, the bill further amends the CINC Code and the Newborn Infant Protection Act (Act) within the Code.

Definitions

The bill amends the following definitions in the CINC Code:

- “Extended out of home placement” specifies removal from the home means from the child’s home;
- “Kinship care” changed to “kinship care placement,” means the placement of a child in the home of an adult with whom the child or the child’s parent already has close emotional ties; and
- “Relative” removes language indicating the term does not include the child’s other parent when referring to a relative of a child’s parent.

Interested Parties

The bill clarifies, in addition to the parties, interested parties also are entitled to notice of the time and place of the dispositional hearing.

Placement of a Child

The term “extended out of home placement” is deleted and replaced in various sections in the CINC Code with the specific time frame defined as when a child has been in the custody of the Secretary for Children and Families and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date on which the child was removed from the child’s home. In continuing law, this time frame is considered when a court is determining whether reintegration is a viable alternative and when a court is making a determination of unfitness.

Permanency Plan

If a child’s permanency plan is either adoption or appointment of a custodian, prior to a hearing to consider the termination of parental rights, either or both parents may relinquish parental rights to the child to the Secretary for Children and Families, consent to an adoption, or consent to appointment of a permanent custodian with the approval of the guardian *ad litem* and the acceptance and approval of the Secretary. Prior law required consent from both the guardian *ad litem* and the Secretary for Children and Families for the parental decision.

Adoption

The bill revises adoption provisions to clarify the process for a child in the custody of the Secretary for Children and Families to proceed to adoption. If a child is in the custody of the Secretary for Children and Families and the parental rights of both parents have been terminated or one parent has had parental rights terminated or has relinquished parental rights of the child to the Secretary, adoption may be allowed by persons approved by the Secretary and the court. The bill also adds language to specify that, if a child is no longer in the custody of

the Secretary for Children and Families, the court is authorized to approve adoption of a child by persons who both parents consent to adopt or one parent consents to adopt, if the parental rights of the other parent have been terminated.

Newborn Infant Protection Act

The bill adds language to state the purpose of the Act is to protect newborn children from injury and death caused by abandonment by a parent and to provide safe and secure alternatives to such abandonment.

Definitions. The following definitions are added and references throughout the Act are updated:

- “Non-relinquishing parent” means the biological parent of an infant who does not leave the infant with any person specified in accordance with the Act; and
- “Relinquishing parent” means the biological parent or person having legal custody of an infant who leaves the infant with any person in accordance with the Act.

The bill changes the defined age of an infant for purposes of the Act from 45 days old or younger to 60 days old or younger and states that provisions of the Act will be applicable to persons purporting to be an infant’s parent.

Relinquishment of infant at a facility. An employee of a facility where an infant was left is allowed to take physical custody of the child without a court order. References to “person or facility” throughout the Act are amended to clarify when provisions are applicable to employees of any facility specified in the Act, any facility specified, or both.

When an infant is delivered to a facility pursuant to the Act that is not a medical care facility, the employee taking physical custody of the infant must make arrangements for the immediate transportation of the infant to the nearest medical care facility. The medical care facility, its employees, agents, and medical staff are required to perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health and safety of the infant.

Immunity. Provisions regarding a specified facility’s civil and criminal immunity are amended to clarify the immunity applied to employees of such facilities. Administrative immunity is added for facilities specified in the Act and employees of such facilities. Such immunity does not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of the infant.

Any medical care facility receiving the infant from another facility pursuant to the Act is immune from administrative, civil, and criminal liability for treatment performed consistent with standards as specified in the Act.

The bill also adds provisions providing immunity from civil or criminal liability for a relinquishing parent if the following conditions are met:

- The relinquishing parent voluntarily delivered the infant safely to the physical custody of an employee at a facility specified in the Act;
- The infant was no more than 60 days old when delivered by the relinquishing parent to the physical custody of an employee at a facility specified in the Act; and
- The infant was not abused or neglected by the relinquishing parent prior to such delivery.

Parental rights to relinquished infant. A relinquishing parent's voluntary delivery of an infant in accordance with the Act shall constitute the parent's implied consent to the adoption of the infant and a voluntary relinquishment of such parent's parental rights.

The bill establishes notice by publication requirements for termination of parental rights proceedings initiated after relinquishment of an infant pursuant to the Act. The bill requires a non-relinquishing parent seeking to establish parental rights to notify the court where the proceeding is filed of the parent's intentions regarding the infant within 30 days after publication of such notice. The court must initiate proceedings to establish parentage if no person notifies the court within 30 days. An examination of the putative father registry is required in order to determine previous attempts to preserve parental rights to the infant and, if such attempts were made, the State must make reasonable efforts to provide notice of the abandonment of the infant to such putative father.

A non-relinquishing parent seeking to preserve parental rights to an infant relinquished pursuant to the Act must take necessary steps to establish parentage within 30 days after the published notice and, if the non-relinquishing parent fails to do so, the bill allows for the termination of such parent's rights with respect to the child. If a non-relinquishing parent inquires at a facility specified in the Act regarding an infant whose custody was relinquished pursuant to the Act, such facility must refer the non-relinquishing parent to the DCF and the court exercising jurisdiction over the child.

Technical Amendments

The bill removes outdated terms and language throughout the CINC Code and other statutes pertaining to children and minors, clarifies that references to "children in need of care" means children in need of care as defined within the Code, updates statutory references, and reconciles effective dates.