

SESSION OF 2018

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 179**

As Recommended by House Committee on
Judiciary

Brief*

House Sub. for SB 179 would create and amend law to establish juvenile crisis intervention centers (intervention centers) and procedures for admission of juveniles to such centers.

Establishment of Intervention Centers

The bill would create law describing an intervention center as a facility that provides short-term observation, assessment, treatment and case planning, and referral for any juvenile experiencing a mental health crisis that causes the juvenile to be likely to cause harm to self or others. The bill would describe 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 would require intervention centers to provide treatment to juveniles admitted to the centers, as appropriate while admitted.

An intervention center could be on the same premises as another licensed facility, but the living unit of the intervention center would have to be maintained in a separate, self-contained unit. An intervention center could not

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

be located in a city or county jail or a juvenile detention facility.

A juvenile could 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 could 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 could 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 Revised Kansas Code for Care of Children (CINC Code), the head of the intervention center could report such concerns to the Department for Children and Families (DCF) or could 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 CMHC where the juvenile is expected to be discharged would be required to be involved with discharge planning. The head of the intervention center would be required to give written notice of the date and time of discharge, within seven

days prior to discharge, to the patient, the CMHC where the juvenile is expected to be discharged, and the patient's parent, custodian, or legal guardian.

The bill would prohibit state agencies from administering or reimbursing state Medicaid services to any juvenile admitted to an intervention center through a managed care delivery system pursuant to a waiver granted by the U.S. Centers for Medicare and Medicaid Services (CMS) under Section 1115 or 1915 of the federal Social Security Act. Any services provided to a juvenile in an intervention center that qualify for Medicaid reimbursement under state or federal law would have to be reimbursed at a fee-for-service rate allowed by the CMS. The bill would not prohibit the 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, subject to the above limitations. The bill would state it would not impair or otherwise affect the validity of any contract in existence on July 1, 2018, between a managed care organization and KDHE to provide state Medicaid services. On or before January 1, 2019, the Secretary of Health and Environment would be required to submit to the 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, would be required to promulgate rules and regulations to implement the law created by the bill.

The Secretary for Children and Families would be required to 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 report would be required to include the number of admissions, releases, and 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 would be permitted to enter into memoranda 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 would define “juvenile” as a person less than 18 years of age. It would also provide definitions of “likely to cause harm to self or others,” “treatment,” and “qualified mental health professional.”

Amendments to Existing Law

The bill would amend various statutes to incorporate use of intervention centers, as follows.

CINC Code Amendments

The bill would amend 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 would amend 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 would non-substantively restructure the list of delivery alternatives in this section.

The bill would require, 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 could deliver the child to an intervention center after written authorization by a CMHC, but the child could not be placed in a juvenile detention facility or other secure facility.

The bill would amend 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 would be 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” would be replaced with “promptly.”

Juvenile Justice Code Amendment

The bill would amend 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 would amend 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.

Technical Amendments

The bill would make technical amendments to statutory references.

Background

As introduced and passed by the Senate in 2017, SB 179 contained various provisions regarding human trafficking. Language based on these provisions was enacted in 2017 House Sub. for SB 40.

The 2018 House Committee on Judiciary recommended a substitute bill for SB 179 containing language modified from HB 2787, creating juvenile crisis intervention centers.

HB 2787 (Juvenile Crisis Intervention Centers)

HB 2787 was introduced by the House Committee on Appropriations at the request of Representative Finch. In the House Committee on Judiciary hearing, representatives of the Association of Community Mental Health Centers of Kansas and Saint Francis Community Services testified in support of the bill, stating the bill was based on recommendations from a 2017 Judicial Council advisory committee study and would create a framework for juvenile crisis intervention in Kansas. A representative of the Kansas County and District Attorneys Association provided written-only proponent testimony. A private citizen testified in opposition to the bill. A representative of the Kansas Community Corrections Association and Behavioral Health Association of Kansas testified as a neutral conferee. No other testimony was provided.

The House Committee modified the language of HB 2787 to clarify the description of an intervention center, the definition of “treatment,” and when an officer may deliver a juvenile to an intervention center, and placed this language into House Sub. for SB 179.

According to the fiscal note prepared by the Division of the Budget on HB 2787, as introduced, the Department for Aging and Disability Services indicates enactment of HB 2787 would have a fiscal effect on the agency but is unable to estimate the fiscal effect.

The Office of the Judicial Administration estimates no fiscal effect on the courts with the enactment of HB 2787, and the Office of the Attorney General estimates no fiscal effect with the enactment of HB 2787.

The Department of Corrections indicates enactment of HB 2787 could increase agency expenditures by \$2.0 million in FY 2019 and beyond. The bill identifies the Evidence-based Programs Account within the Department of Corrections as a funding source for implementing provisions of the bill and expenditures from the account for purposes prescribed in the bill would be limited to \$2.0 million annually. The Department of Corrections estimates funds will be available in the account through the end of FY 2020. However, if the account does not receive ongoing appropriations in out years, moneys available in the account would become inadequate.

DCF indicates enactment of HB 2787 would have a fiscal effect on agency operations. Promulgating rules and regulations would require additional staff time but would be absorbed within existing agency resources. Annual reporting requirements would also be absorbed within existing agency resources. DCF estimates no increased expenditures for placing children in intervention centers because the agency assumes Medicaid moneys, made available through KDHE, would be used for those placements. DCF anticipates a need to increase staffing levels to license and monitor intervention

centers. However, the agency cannot estimate how many additional FTE positions would be necessary because the agency cannot estimate how many facilities would be utilized and where those facilities would be located.

KDHE states HB 2787 will have a fiscal effect. However, to quantify the effect, more information regarding the intervention centers is needed than what is provided in the bill. Any fiscal effect associated with enactment of HB 2787 is not reflected in *The FY 2019 Governor's Budget Report*.