

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2200

By Committee on Corrections and Juvenile Justice

2-2

1 AN ACT concerning children and minors; relating to risk and needs
2 assessment for certain children in need of care; allowing for overall
3 case length limit extensions for certain juvenile offenders; requiring the
4 department of corrections to create juvenile justice database systems;
5 increasing use of evidence-based programs account money;
6 **authorizing detention sanctions for probation violations; increasing**
7 **the cumulative detention cap;** amending K.S.A. **38-2203, 38-2304,**
8 **38-2361, 38-2391, 38-2392,** 75-52,162 and 75-52,164 and K.S.A. 2020
9 Supp. 38-2203, 38-2304 and 38-2391 and repealing the existing
10 sections.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. (a) On or before October 1, ~~2021~~ **2022**, the secretary
14 of corrections and the secretary for children and families shall enter into a
15 memorandum of understanding to coordinate administering a risk and
16 needs assessment, as defined in K.S.A. ~~2020 Supp.~~ 38-2302, and
17 amendments thereto, to children who have been identified as exhibiting
18 behavior that could lead to offending behavior during the course of a child
19 in need of care proceeding.

20 (b) The memorandum of understanding shall include procedures for
21 allowing children identified pursuant to subsection (a) to participate in
22 evidence-based community programs offered pursuant to K.S.A. 75-
23 52,164, and amendments thereto.

24 (c) A copy of the memorandum of understanding shall be provided to
25 the joint committee on corrections and juvenile justice oversight, the house
26 of representatives standing committee on corrections and juvenile justice
27 and the senate standing committee on judiciary.

28 Sec. 2. K.S.A. ~~2020 Supp.~~ 38-2203 is hereby amended to read as
29 follows: 38-2203. (a) Proceedings concerning any child who may be a
30 child in need of care shall be governed by this code, except in those
31 instances when the court knows or has reason to know that an Indian child
32 is involved in the proceeding, in which case, the Indian child welfare act of
33 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may
34 apply to: The filing to initiate a child in need of care proceeding, K.S.A.
35 ~~2020 Supp.~~ 38-2234, and amendments thereto; ex parte custody orders,
36 K.S.A. ~~2020 Supp.~~ 38-2242, and amendments thereto; temporary custody

1 hearing, K.S.A.—2020—Supp. 38-2243, and amendments thereto;
2 adjudication, K.S.A.—2020—Supp. 38-2247, and amendments thereto;
3 burden of proof, K.S.A.—2020—Supp. 38-2250, and amendments thereto;
4 disposition, K.S.A.—2020—Supp. 38-2255, and amendments thereto;
5 permanency hearings, K.S.A.—2020—Supp. 38-2264, and amendments
6 thereto; termination of parental rights, K.S.A.—2020—Supp. 38-2267, 38-
7 2268 and 38-2269, and amendments thereto; establishment of permanent
8 custodianship, K.S.A.—2020—Supp. 38-2268 and 38-2272, and amendments
9 thereto; the placement of a child in any foster, pre-adoptive and adoptive
10 home and the placement of a child in a guardianship arrangement under
11 article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments
12 thereto.

13 (b) Subject to the uniform child custody jurisdiction and enforcement
14 act, K.S.A.—2020 2021 Supp. 23-37,101 through 23-37,405, and
15 amendments thereto, the district court shall have original jurisdiction of
16 proceedings pursuant to this code.

17 (c) The court acquires jurisdiction over a child by the filing of a
18 petition pursuant to this code or upon issuance of an ex parte order
19 pursuant to K.S.A.—2020—Supp. 38-2242, and amendments thereto. When
20 the court acquires jurisdiction over a child in need of care, jurisdiction may
21 continue until the child has: (1) Become 18 years of age, or until June 1 of
22 the school year during which the child became 18 years of age if the child
23 is still attending high school unless there is no court approved transition
24 plan, in which event jurisdiction may continue until a transition plan is
25 approved by the court or until the child reaches the age of 21; (2) been
26 adopted; or (3) been discharged by the court. Any child 18 years of age or
27 over may request, in writing to the court, that the jurisdiction of the court
28 cease. The court shall give notice of the request to all parties and interested
29 parties and 30 days after receipt of the request, jurisdiction will cease.

30 (d) When it is no longer appropriate for the court to exercise
31 jurisdiction over a child, the court, upon its own motion or the motion of a
32 party or interested party at a hearing or upon agreement of all parties or
33 interested parties, shall enter an order discharging the child. Except upon
34 request of the child pursuant to subsection (c), the court shall not enter an
35 order discharging a child until June 1 of the school year during which the
36 child becomes 18 years of age if the child is in an out-of-home placement,
37 is still attending high school and has not completed the child's high school
38 education.

39 (e) When a petition is filed under this code, a person who is alleged to
40 be under 18 years of age shall be presumed to be under that age for the
41 purposes of this code, unless the contrary is proved.

42 (f) A court's order issued in a proceeding pursuant to this code; shall
43 take precedence over such orders in a civil custody case, a proceeding

1 under article 31 of chapter 60 of the Kansas Statutes Annotated, and
2 amendments thereto, protection from abuse act, or a comparable case in
3 another jurisdiction, except as provided by K.S.A. ~~2020~~ 2021 Supp. 23-
4 37,101 through 23-37,405, and amendments thereto, uniform child custody
5 jurisdiction and enforcement act.

6 *(g) If a child is eligible to receive services from the Kansas*
7 *department for children and families, the department of corrections or the*
8 *judicial branch, such agencies shall collaborate to provide such services.*
9 *Nothing in this subsection shall preclude the child from accessing services*
10 *provided by the Kansas department for children and families, the*
11 *department of corrections, the judicial branch or any other state agency if*
12 *the child is otherwise eligible for the services.*

13 Sec. 3. K.S.A. ~~2020 Supp.~~ 38-2304 is hereby amended to read as
14 follows: 38-2304. (a) Except as provided in K.S.A. ~~2020 Supp.~~ 38-2347,
15 and amendments thereto, proceedings concerning a juvenile shall be
16 governed by the provisions of this code.

17 (b) The district court shall have original jurisdiction to receive and
18 determine proceedings under this code.

19 (c) When a complaint is filed under this code, the juvenile shall be
20 presumed to be subject to this code, unless the contrary is proved.

21 (d) Once jurisdiction is acquired by the district court over an alleged
22 juvenile offender, except as otherwise provided in subsection (e),
23 jurisdiction shall continue until one of the following occurs:

24 (1) The complaint is dismissed;

25 (2) the juvenile is adjudicated not guilty at trial;

26 (3) the juvenile, after being adjudicated guilty and sentenced:

27 (i) Successfully completes the term of probation;

28 (ii) is discharged by the secretary pursuant to K.S.A. ~~2020 Supp.~~ 38-
29 2376, and amendments thereto;

30 (iii) reaches the juvenile's 21st birthday and no exceptions apply that
31 extend jurisdiction beyond age 21; or

32 (iv) reaches the overall case length limit;

33 (4) the court terminates jurisdiction; or

34 (5) the juvenile is convicted of a crime as an adult pursuant to chapter
35 22 of the Kansas Statutes Annotated, and amendments thereto.

36 (e) Once jurisdiction is acquired by the district court over an alleged
37 juvenile offender, it shall continue beyond the juvenile offender's 21st
38 birthday but ~~no~~ not later than the juvenile offender's 23rd birthday if:

39 (1) The juvenile offender is sentenced pursuant to K.S.A. ~~2020 Supp.~~
40 38-2369, and amendments thereto, and the term of the sentence including
41 successful completion of conditional release extends beyond the juvenile
42 offender's 21st birthday but does not extend beyond the overall case length
43 limit; or

1 (2) the juvenile offender is sentenced pursuant to an extended
2 jurisdiction juvenile prosecution and continues to successfully serve the
3 sentence imposed pursuant to the revised Kansas juvenile justice code.

4 (f) Termination of jurisdiction pursuant to this section shall have no
5 effect on the juvenile offender's continuing responsibility to pay restitution
6 ordered.

7 (g) (1) If a juvenile offender, at the time of sentencing, is in an ~~out of~~
8 ~~home~~ *out-of-home* placement in the custody of the secretary for children
9 and families under the Kansas code for care of children, the sentencing
10 court may order the continued placement of the juvenile offender as a child
11 in need of care.

12 (2) Court services, community corrections and the department of
13 corrections shall address the risks and needs of the juvenile offender
14 according to the results of the risk and needs assessment.

15 ~~(3) If the juvenile offender is placed in the custody of the secretary of~~
16 ~~corrections, the secretary for children and families shall be responsible for~~
17 ~~collaborating with the department of corrections to furnish services~~
18 ~~ordered in the child in need of care proceeding during the time of the~~
19 ~~placement pursuant to the revised Kansas juvenile justice code. Nothing in~~
20 ~~this subsection shall preclude the juvenile offender from accessing services~~
21 ~~provided by the Kansas department for children and families or any other~~
22 ~~state agency if the juvenile offender is otherwise eligible for the services.~~

23 *(h) If a juvenile or juvenile offender is eligible to receive services*
24 *from the Kansas department for children and families, the department of*
25 *corrections or the judicial branch, such agencies shall collaborate to*
26 *provide such services. Nothing in this code shall preclude the juvenile or*
27 *juvenile offender from accessing services provided by the Kansas*
28 *department for children and families, the department of corrections, the*
29 *judicial branch or any other state agency if the juvenile or juvenile*
30 *offender is otherwise eligible for the services.*

31 ~~(h)(i)~~ (i) A court's order issued in a proceeding pursuant to this code,
32 shall take precedence over such orders in a proceeding under chapter 23 of
33 the Kansas Statutes Annotated, and amendments thereto, the Kansas
34 family law code, a proceeding under article 31 of chapter 60 of the Kansas
35 Statutes Annotated, and amendments thereto, protection from abuse act, a
36 proceeding under article 21 of chapter 59 of the Kansas Statutes
37 Annotated, and amendments thereto, adoption and relinquishment act, a
38 proceeding under article 30 of chapter 59 of the Kansas Statutes
39 Annotated, and amendments thereto, guardians and conservators, or a
40 comparable case in another jurisdiction, except as provided by K.S.A.
41 ~~2020~~ 2021 Supp. 23-37,101 et seq., and amendments thereto, uniform
42 child custody jurisdiction and enforcement act.

43 **Sec. 4. K.S.A. 38-2361 is hereby amended to read as follows: 38-**

1 2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A.
2 38-2356, and amendments thereto, modification of sentence pursuant
3 to K.S.A. 38-2367, and amendments thereto, or violation of a condition
4 of sentence pursuant to K.S.A. 38-2368, and amendments thereto, the
5 court may impose one or more of the following sentencing alternatives
6 for a fixed period pursuant to K.S.A. 38-2369 and 38-2391, and
7 amendments thereto.

8 (1) Place the juvenile on probation for a fixed period pursuant to
9 K.S.A. 38-2391, and amendments thereto, subject to terms and
10 conditions the court deems appropriate consistent with juvenile justice
11 programs in the community. Any juvenile placed on probation shall be
12 supervised according to the juvenile's risk and needs as determined by
13 a risk and needs assessment. Placement of juvenile offenders to
14 community corrections for probation supervision shall be limited to
15 offenders adjudicated for an offense that are determined to be
16 moderate-risk, high-risk or very high-risk on a risk and needs
17 assessment using the cutoff scores established by the secretary
18 pursuant to K.S.A. 38-2360, and amendments thereto.

19 (2) Order the juvenile to participate in a community based
20 program available in such judicial district subject to the terms and
21 conditions the court deems appropriate. This alternative shall not be
22 ordered with the alternative in paragraph (1). Requirements
23 pertaining to child support may apply if custody is vested with other
24 than a parent.

25 (3) Place the juvenile in the custody of a parent or other suitable
26 person, which is not a group home or other facility licensed pursuant
27 to article 5 of chapter 65 of the Kansas Statutes Annotated, and
28 amendments thereto, subject to terms and conditions consistent with
29 juvenile justice programs in the community. This alternative shall not
30 be ordered with the alternative in paragraph (1). Requirements
31 pertaining to child support may apply if custody is vested with other
32 than a parent.

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

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

39 (6) Order the juvenile to perform charitable or community
40 service work.

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

43 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant

1 to subsection (e).

2 (9) Place the juvenile under a house arrest program administered
3 by the court pursuant to K.S.A. 2021 Supp. 21-6609, and amendments
4 thereto.

5 (10) Place the juvenile in the custody of the secretary of
6 corrections as provided in K.S.A. 38-2365, and amendments thereto.
7 This alternative shall not be ordered with the alternative in paragraph
8 (3) or (12). Except for mandatory drug and alcohol evaluation, when
9 this alternative is ordered with alternatives in paragraphs (2), (4) and
10 (9), such orders shall constitute a recommendation by the court.
11 Requirements pertaining to child support shall apply under this
12 alternative. The provisions of this paragraph shall expire on January
13 1, 2018.

14 (11) Upon a violation of a condition of sentence, other than a
15 technical violation pursuant to K.S.A. 38-2368, and amendments
16 thereto, commit the juvenile to detention for a period no longer than
17 30 days subject to the provisions of subsection (g).

18 (12) If the judge finds and enters into the written record that the
19 juvenile poses a significant risk of harm to another or damage to
20 property, and the juvenile is otherwise eligible for commitment
21 pursuant to K.S.A. 38-2369, and amendments thereto, commit the
22 juvenile directly to the custody of the secretary of corrections for
23 placement in a juvenile correctional facility or a youth residential
24 facility. Placement in a youth residential facility shall only be
25 permitted as authorized in K.S.A. 38-2369(e), and amendments
26 thereto. If the court elects, a period of conditional release pursuant to
27 K.S.A. 38-2369, and amendments thereto, may also be ordered. The
28 period of conditional release shall be limited to a maximum of six
29 months and shall be subject to graduated responses. Twenty-one days
30 prior to the juvenile's release from a juvenile correctional facility, the
31 secretary of corrections or designee shall notify the court of the
32 juvenile's anticipated release date. This alternative may be ordered
33 with the alternative in paragraph (7). Requirements pertaining to
34 child support shall apply under this alternative.

35 (13) Upon a finding by the trier of fact during adjudication that a
36 firearm was used in the commission of an offense by the accused
37 which, if committed by an adult, would constitute a felony, a judge
38 may commit the juvenile directly to the custody of the secretary of
39 corrections for placement in a juvenile correctional facility or youth
40 residential facility for a minimum term of six months and up to a
41 maximum term of 18 months, regardless of the risk level of such
42 juvenile as determined by a risk and needs assessment. If the juvenile
43 is committed to the custody of the secretary, and the court elects, a

1 period of conditional release, pursuant to K.S.A. 38-2369, and
2 amendments thereto, may also be ordered. The period of conditional
3 release shall be limited to a maximum of six months and shall be
4 subject to graduated responses. Twenty-one days prior to the
5 juvenile's release from a juvenile correctional facility or youth
6 residential facility, the secretary of corrections or the secretary's
7 designee shall notify the court of the juvenile's anticipated release
8 date.

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

13 (1) The court may order the juvenile offender to participate in
14 counseling or mediation sessions or a program of education, including
15 placement in an alternative educational program approved by a local
16 school board. The costs of any counseling or mediation may be
17 assessed as expenses in the case. No mental health center shall charge
18 a fee for court-ordered counseling greater than what the center would
19 have charged the person receiving the counseling if the person had
20 requested counseling on the person's own initiative. No mediator shall
21 charge a fee for court-ordered mediation greater than what the
22 mediator would have charged the person participating in the
23 mediation if the person had requested mediation on the person's own
24 initiative. Mediation may include the victim but shall not be
25 mandatory for the victim; and

26 (2) if the juvenile has been adjudicated to be a juvenile by reason
27 of a violation of a statute that makes such a requirement, the court
28 shall order and, if adjudicated for any other offense, the court may
29 order the juvenile to submit to and complete a drug and alcohol
30 evaluation by a community-based drug and alcohol safety action
31 program certified pursuant to K.S.A. 8-1008, and amendments
32 thereto, and to pay a fee not to exceed the fee established by that
33 statute for such evaluation. The court may waive the mandatory
34 evaluation if the court finds that the juvenile completed a drug and
35 alcohol evaluation, approved by the community-based alcohol and
36 drug safety action program, within 12 months before sentencing. If the
37 evaluation occurred more than 12 months before sentencing, the court
38 shall order the juvenile to resubmit to and complete the evaluation
39 and program as provided herein. If the court finds that the juvenile
40 and those legally liable for the juvenile's support are indigent, the
41 court may waive the fee. In no event shall the fee be assessed against
42 the secretary of corrections or the department of corrections nor shall
43 the fee be assessed against the secretary of the department for children

1 and families or the Kansas department for children and families if the
2 juvenile is in the secretary's care, custody and control.

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

7 (1) The duration of the suspension ordered by the court shall be
8 for a definite time period to be determined by the court. Upon
9 suspension of a license pursuant to this subsection, the court shall
10 require the juvenile offender to surrender the license to the court. The
11 court shall transmit the license to the division of motor vehicles of the
12 department of revenue, to be retained until the period of suspension
13 expires. At that time, the licensee may apply to the division for return
14 of the license. If the license has expired, the juvenile offender may
15 apply for a new license, which shall be issued promptly upon payment
16 of the proper fee and satisfaction of other conditions established by
17 law for obtaining a license unless another suspension or revocation of
18 the juvenile offender's privilege to operate a motor vehicle is in effect.
19 As used in this subsection, "highway" and "street" have the meanings
20 provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any
21 juvenile offender who does not have a driver's license may have
22 driving privileges revoked. No Kansas driver's license shall be issued
23 to a juvenile offender whose driving privileges have been revoked
24 pursuant to this section for a definite time period to be determined by
25 the court; and

26 (2) in lieu of suspending a juvenile offender's driver's license or
27 privilege to operate a motor vehicle on the highways of this state, the
28 court may enter an order which places conditions on the juvenile
29 offender's privilege of operating a motor vehicle on the streets and
30 highways of this state, a certified copy of which the juvenile offender
31 shall be required to carry any time the juvenile offender is operating a
32 motor vehicle on the streets and highways of this state. The order shall
33 prescribe a definite time period for the conditions imposed. Upon
34 entering an order restricting a juvenile offender's license, the court
35 shall require the juvenile offender to surrender such juvenile
36 offender's license to the court. The court shall transmit the license to
37 the division of vehicles, together with a copy of the order. Upon receipt
38 thereof, the division of vehicles shall issue without charge a driver's
39 license which shall indicate on its face that conditions have been
40 imposed on the juvenile offender's privilege of operating a motor
41 vehicle and that a certified copy of the order imposing the conditions
42 is required to be carried by the juvenile offender when operating a
43 motor vehicle on the streets and highways of this state. If the juvenile

1 offender is a nonresident, the court shall cause a copy of the order to
2 be transmitted to the division and the division shall forward a copy of
3 it to the motor vehicle administrator of the juvenile offender's state of
4 issuance. The court shall furnish to any juvenile offender whose
5 driver's license has had conditions imposed on it under this section a
6 copy of the order, which shall be recognized as a valid Kansas driver's
7 license until the division issues the restricted license provided for in
8 this subsection. Upon expiration of the period of time for which
9 conditions are imposed pursuant to this subsection, the juvenile
10 offender may apply to the division for the return of the license
11 previously surrendered by the juvenile offender. In the event the
12 license has expired, the juvenile offender may apply to the division for
13 a new license, which shall be issued immediately by the division upon
14 payment of the proper fee and satisfaction of the other conditions
15 established by law unless such juvenile offender's privilege to operate
16 a motor vehicle on the streets and highways of this state has been
17 suspended or revoked prior thereto. If any juvenile offender violates
18 any of the conditions imposed under this subsection, the juvenile
19 offender's driver's license or privilege to operate a motor vehicle on
20 the streets and highways of this state shall be revoked for a period as
21 determined by the court in which the juvenile offender is convicted of
22 violating such conditions.

23 (d) The following provisions apply to the court's determination of
24 whether to order reparation or restitution pursuant to subsection (a)
25 (7):

26 (1) The court shall order the juvenile to make reparation or
27 restitution to the aggrieved party for the damage or loss caused by the
28 juvenile offender's offense unless it finds compelling circumstances
29 that would render a plan of reparation or restitution unworkable. If
30 the court finds compelling circumstances that would render a plan of
31 reparation or restitution unworkable, the court shall enter such
32 findings with particularity on the record. In lieu of reparation or
33 restitution, the court may order the juvenile to perform charitable or
34 social service for organizations performing services for the
35 community; and

36 (2) restitution may include, but shall not be limited to, the
37 amount of damage or loss caused by the juvenile's offense. Restitution
38 may be made by payment of an amount fixed by the court or by
39 working for the parties sustaining loss in the manner ordered by the
40 court. An order of monetary restitution shall be a judgment against
41 the juvenile that may be collected by the court by garnishment or
42 other execution as on judgments in civil cases. Such judgment shall
43 not be affected by the termination of the court's jurisdiction over the

1 juvenile offender.

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

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

8 (2) in determining whether to impose a fine and the amount to be
9 imposed, the court shall consider that imposition of a fine is most
10 appropriate in cases where the juvenile has derived pecuniary gain
11 from the offense and that imposition of a restitution order is
12 preferable to imposition of a fine; and

13 (3) any fine imposed by *the* court shall be a judgment against the
14 juvenile that may be collected by the court by garnishment or other
15 execution as on judgments in civil cases. Such judgment shall not be
16 affected by the termination of the court's jurisdiction over the
17 juvenile.

18 (f) Before the court sentences a juvenile offender pursuant to
19 subsection (a), the court shall administer a risk assessment tool, as
20 described in K.S.A. 38-2360, and amendments thereto, or review a risk
21 assessment tool that was administered within the past six months to
22 the juvenile and use the results of that assessment to inform orders
23 made pursuant to K.S.A. 38-2369 and 38-2391, and amendments
24 thereto.

25 (g) If the court commits the juvenile to detention pursuant to
26 subsection (a)(11), the following provisions shall apply:

27 (1) The court shall only order commitment to detention upon
28 violation of sentencing conditions where all other alternatives have
29 been exhausted.

30 (2) In order to commit a juvenile to detention upon violation of
31 sentencing conditions, the court shall find that the juvenile poses a
32 significant risk of harm to another or damage to property, is charged
33 with a new felony offense, or violates conditional release.

34 (3) The court shall not order commitment to detention upon
35 adjudication as a juvenile offender pursuant to K.S.A. 38-2356, and
36 amendments thereto, for solely technical violations of probation,
37 contempt, a violation of a valid court order, to protect from self-harm
38 or due to any state or county failure to find adequate alternatives.

39 (4) Cumulative detention use shall be limited to a maximum of ~~45~~
40 90 days over the course of a juvenile offender's case pursuant to
41 K.S.A. 38-2391, and amendments thereto. The court shall review any
42 detention commitment every seven days and may shorten the initial
43 commitment or extend the commitment. In no case, however, may the

1 term of detention or any extension thereof exceed the cumulative
2 detention limit of 45 90 days or the overall case length limit.

3 (5) A juvenile over 18 years of age and less than 23 years of age at
4 sentencing shall be committed to a county jail, in lieu of a juvenile
5 detention center, under the same time restrictions imposed by
6 paragraph (1), but shall not be committed to or confined in a juvenile
7 detention facility.

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

10 (i) In addition to the requirements of K.S.A. 38-2373, and
11 amendments thereto, if a person is under 18 years of age and
12 convicted of a felony or adjudicated as a juvenile offender for an
13 offense if committed by an adult would constitute the commission of a
14 felony, the court shall forward a signed copy of the journal entry to
15 the secretary of corrections within 30 days of final disposition.

16 (j) Except as further provided, if a juvenile has been adjudged to
17 be a juvenile offender for an offense which, if committed by an adult
18 would constitute the commission of: (1) Aggravated human
19 trafficking, as defined in K.S.A. 2021 Supp. 21-5426(b), and
20 amendments thereto, if the victim is less than 14 years of age; (2) rape,
21 as defined in K.S.A. 2021 Supp. 21-5503(a)(3), and amendments
22 thereto; (3) aggravated indecent liberties with a child, as defined in
23 K.S.A. 2021 Supp. 21-5506(b)(3), and amendments thereto; (4)
24 aggravated criminal sodomy, as defined in K.S.A. 2021 Supp. 21-
25 5504(b)(1) or (b)(2), and amendments thereto; (5) commercial sexual
26 exploitation of a child, as defined in K.S.A. 2021 Supp. 21-6422, and
27 amendments thereto, if the victim is less than 14 years of age; (6)
28 sexual exploitation of a child, as defined in K.S.A. 2021 Supp. 21-
29 5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than
30 14 years of age; or (7) an attempt, conspiracy or criminal solicitation,
31 as defined in K.S.A. 2021 Supp. 21-5301, 21-5302 or 21-5303, and
32 amendments thereto, of an offense defined in paragraphs (1) through
33 (6); the court shall issue an order prohibiting the juvenile from
34 attending the attendance center that the victim of the offense attends.
35 If only one attendance center exists, for which the victim and juvenile
36 are eligible to attend, in the school district where the victim and the
37 juvenile reside, the court shall hear testimony and take evidence from
38 the victim, the juvenile, their families and a representative of the
39 school district as to why the juvenile should or should not be allowed
40 to remain at the attendance center attended by the victim. After such
41 hearing, the court may issue an order prohibiting the juvenile from
42 attending the attendance center that the victim of the offense attends.

43 (k) The court may order a short-term alternative placement of a

1 juvenile pursuant to subsection (a)(3) in an emergency shelter,
2 therapeutic foster home or community integration program if:

3 (1) Such juvenile has been adjudicated to be a juvenile offender
4 for an offense which, if committed by an adult would constitute the
5 commission of:

6 (A) Aggravated human trafficking, as defined in K.S.A. 2021
7 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14
8 years of age;

9 (B) rape, as defined in K.S.A. 2021 Supp. 21-5503, and
10 amendments thereto;

11 (C) commercial sexual exploitation of a child, as defined in K.S.A.
12 2021 Supp. 21-6422, and amendments thereto, if the victim is less than
13 14 years of age;

14 (D) sexual exploitation of a child, as defined in K.S.A. 2021 Supp.
15 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less
16 than 14 years of age;

17 (E) aggravated indecent liberties with a child, as defined in
18 K.S.A. 2021 Supp. 21-5506, and amendments thereto, if the victim is
19 less than 14 years of age; or

20 (F) an attempt, conspiracy or criminal solicitation, as defined in
21 K.S.A. 2021 Supp. 21-5301, 21-5302 or 21-5303, and amendments
22 thereto, of an offense defined in paragraphs (1) through (4); and

23 (2) (A) the victim resides in the same home as the juvenile
24 offender;

25 (B) a community supervision officer in consultation with the
26 department for children and families determines that an adequate
27 safety plan, which shall include the physical and psychological well-
28 being of the victim, cannot be developed to keep the juvenile in the
29 same home; and

30 (C) there are no relevant child in need of care issues that would
31 permit a case to be filed under the Kansas code for care of children.

32 The presumptive term of commitment shall not extend beyond the
33 overall case length limit but may be modified pursuant to K.S.A. 38-
34 2367 and 38-2397, and amendments thereto. If a child is placed
35 outside the child's home at the dispositional hearing pursuant to this
36 subsection and no reintegration plan is made a part of the record of
37 the hearing, a written reintegration plan shall be prepared pursuant to
38 K.S.A. 38-2397, and amendments thereto, and submitted to the court
39 within 15 days of the initial order of the court.

40 (l) The sentencing hearing shall be open to the public as provided
41 in K.S.A. 38-2353, and amendments thereto.

42 (m) The overall case length limit shall be calculated by the court
43 and entered into the written record when one or more of the

1 **sentencing options under this section are imposed. The period fixed by**
2 **the court pursuant to subsection (a) shall not extend beyond the**
3 **overall case length limit.**

4 ~~Sec. 4. 5. K.S.A. 2020 Supp.~~ 38-2391 is hereby amended to read as
5 follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to
6 K.S.A. ~~2020 Supp.~~ 38-2356, and amendments thereto, modification of
7 sentence pursuant to K.S.A. ~~2020 Supp.~~ 38-2367, and amendments thereto,
8 or violation of a condition of sentence pursuant to K.S.A. ~~2020 Supp.~~ 38-
9 2368, and amendments thereto, the court may impose one or more of the
10 sentencing alternatives under K.S.A. ~~2020 Supp.~~ 38-2361, and
11 amendments thereto, for a period of time pursuant to this section and
12 K.S.A. ~~2020 Supp.~~ 38-2369, and amendments thereto. The period of time
13 ordered by the court shall not exceed the overall case length limit.

14 (b) Except as provided in subsection (c), the overall case length limit
15 shall be calculated based on the adjudicated offense and the results of a
16 risk and needs assessment, as follows:

17 (1) Offenders adjudicated for a misdemeanor may remain under the
18 jurisdiction of the court for up to 12 months;

19 (2) low-risk and moderate-risk offenders adjudicated for a felony may
20 remain under court jurisdiction for up to 15 months; and

21 (3) high-risk offenders adjudicated for a felony may remain under
22 court jurisdiction for up to 18 months.

23 (c) There shall be no overall case length limit for a juvenile
24 adjudicated for a felony which, if committed by an adult, would constitute
25 an off-grid felony or a nondrug severity level 1 through 4 person felony.

26 (d) When a juvenile is adjudicated for multiple counts, the maximum
27 overall case length shall be calculated based on the most severe
28 adjudicated count or any other adjudicated count at the court's discretion.
29 The court shall not run multiple adjudicated counts consecutively.

30 (e) When the juvenile is adjudicated for multiple cases
31 simultaneously, the court shall run ~~those~~ *such* cases concurrently.

32 (f) Upon expiration of the overall case length limit as defined in
33 subsection (b), the court's jurisdiction terminates and shall not be
34 extended, *except as provided in subsection (g)(2).*

35 (g) (1) For the purposes of placing juvenile offenders on probation
36 pursuant to K.S.A. ~~2020 Supp.~~ 38-2361, and amendments thereto, the
37 court shall establish a specific term of probation as specified in this
38 subsection based on the most serious adjudicated count in combination
39 with the results of a risk and needs assessment, as follows, except that the
40 term of probation shall not exceed the overall case length limit:

41 (A) Low-risk and moderate-risk offenders adjudicated for a
42 misdemeanor and low-risk offenders adjudicated for a felony may be
43 placed on probation for a term up to six months;

1 (B) high-risk offenders adjudicated for a misdemeanor and moderate-
2 risk offenders adjudicated for a felony may be placed on probation for a
3 term up to nine months; and

4 (C) high-risk offenders adjudicated for a felony may be placed on
5 probation for a term up to 12 months.

6 (2) The court may extend the term of probation if a juvenile needs
7 time to complete an evidence-based program as determined to be
8 necessary based on the results of a validated risk and needs assessment
9 *and, if necessary, may extend the overall case length limit to allow for*
10 *completion of such program when failure to complete such program is due*
11 *to delay by the juvenile.* The court may also extend the term of probation
12 for good cause shown for one month for low-risk offenders, three months
13 for moderate-risk offenders and six months for high-risk offenders. Prior
14 to extension of the initial probationary term, the court shall find and enter
15 into the written record the criteria permitting extension of probation.
16 Extensions of probation *and the overall case length limit* shall only be
17 granted incrementally ~~and shall not exceed the overall case length limit.~~
18 When the court extends the term of probation for a juvenile offender, the
19 court services officer or community correctional services officer
20 responsible for monitoring such juvenile offender shall record the reason
21 given for extending probation. Court services officers shall report such
22 records to the office of judicial administration, and community
23 correctional services officers shall report such records to the department of
24 corrections. The office of judicial administration and the department of
25 corrections shall report such recorded data to the Kansas juvenile justice
26 oversight committee on a quarterly basis.

27 (3) The probation term limits do not apply to those offenders
28 adjudicated for an offense which, if committed by an adult, would
29 constitute an off-grid crime, rape as defined in K.S.A.—2020 2021 Supp.
30 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as
31 defined in K.S.A.—2020 2021 Supp. 21-5504(b)(3), and amendments
32 thereto, or murder in the second degree as defined in K.S.A.—2020 2021
33 Supp. 21-5403, and amendments thereto. Such offenders may be placed on
34 probation for a term consistent with the overall case length limit.

35 (4) The probation term limits and overall case length limits provided
36 in this section shall be tolled during any time that the offender has
37 absconded from supervision while on probation, and the time on such
38 limits shall not start to run again until the offender is located and brought
39 back to the jurisdiction.

40 (h) For the purpose of placing juvenile offenders in detention
41 pursuant to K.S.A.—2020 Supp. 38-2361 and 38-2369, and amendments
42 thereto, the court shall establish a specific term of detention. The term of
43 detention shall not exceed the overall case length limit or the cumulative

1 detention limit. Cumulative detention use shall be limited to a maximum
2 of ~~45~~ **90** days over the course of the juvenile offender's case, except that
3 there shall be no limit on cumulative detention for juvenile offenders
4 adjudicated for a felony which, if committed by an adult, would constitute
5 an off-grid felony or a nondrug severity level 1 through 4 person felony.

6 (i) The provisions of this section shall apply upon disposition or 15
7 days after adjudication, whichever is sooner, unless the juvenile fails to
8 appear for such juvenile's dispositional hearing. If a juvenile fails to appear
9 at such juvenile's dispositional hearing, the probation term limits and
10 overall case length limits provided in this section shall not apply until the
11 juvenile is brought before the court for disposition in such juvenile's case.

12 (j) This section shall be *a* part of and supplemental to the revised
13 Kansas juvenile justice code.

14 **Sec. 6. K.S.A. 38-2392 is hereby amended to read as follows: 38-**
15 **2392. (a) The department of corrections shall, in consultation with the**
16 **supreme court, adopt rules and regulations by January 1, 2017, for a**
17 **statewide system of structured community-based graduated responses**
18 **for technical violations of probation, violations of conditional release**
19 **and violations of a condition of sentence by juveniles. Such graduated**
20 **responses shall be utilized by community supervision officers to**
21 **provide a continuum of community-based responses. These responses**
22 **shall include sanctions that are swift and certain to address violations**
23 **based on the severity of the violation as well as incentives that**
24 **encourage positive behaviors. Such responses shall take into account**
25 **the juvenile's risks and needs.**

26 (b) (1) *Except as provided in paragraph (4), when a juvenile is*
27 **placed on probation pursuant to K.S.A. 38-2361, and amendments**
28 **thereto, community supervision officers shall utilize graduated**
29 **responses, targeted to the juvenile's risks and needs based on the**
30 **results of a risk and needs assessment to address technical violations.**
31 **A technical violation shall only be considered by the court for**
32 **revocation if:**

33 ~~(1)~~(A) **It is a third or subsequent technical violation;**

34 ~~(2)~~(B) **prior failed responses are documented in the juvenile's case**
35 **plan; and**

36 ~~(3)~~(C) **the community supervision officer has determined and**
37 **documented that graduated responses to the violation will not suffice.**

38 (2) **Unless a juvenile poses a significant risk of physical harm to**
39 **another or damage to property, community supervision officers shall**
40 **issue a summons rather than request a warrant on a third or**
41 **subsequent technical violation subject to review by the court.**

42 (3) **Absconding from supervision shall not be considered a**
43 **technical violation of probation and, after reasonable efforts to locate**

1 **a juvenile that has absconded are unsuccessful, the court may issue a**
2 **warrant for the juvenile pursuant to K.S.A. 38-2342, and amendments**
3 **thereto.**

4 *(4) When a juvenile is placed on probation pursuant to K.S.A. 38-*
5 *2361, and amendments thereto, a judge may commit such juvenile to*
6 *detention for a violation of probation, including a technical violation, and*
7 *for contempt of court. A juvenile may be committed to detention for a*
8 *period not to exceed:*

9 *(A) 24 hours for a first violation;*

10 *(B) 48 hours for a second violation; and*

11 *(C) 15 days for a third or subsequent violation.*

12 **(c) When a juvenile is placed on probation pursuant to K.S.A. 38-**
13 **2361, and amendments thereto, the community supervision officer**
14 **responsible for oversight of the juvenile shall develop a case plan in**
15 **consultation with the juvenile and the juvenile's family. The**
16 **department for children and families and local board of education**
17 **may participate in the development of the case plan when appropriate.**

18 **(1) Such case plan shall incorporate the results of the risk and**
19 **needs assessment, referrals to programs, documentation on violations**
20 **and graduated responses and shall clearly define the role of each**
21 **person or agency working with the juvenile.**

22 **(2) If the juvenile is later committed to the custody of the**
23 **secretary, the case plan shall be shared with the juvenile correctional**
24 **facility.**

25 **(d) This section shall be a part of and supplemental to the revised**
26 **Kansas juvenile justice code.**

27 ~~Sec. 7.~~ K.S.A. 75-52,162 is hereby amended to read as follows: 75-
28 52,162. (a) (1) The department of corrections and the Kansas juvenile
29 justice oversight committee shall explore methods of exchanging
30 confidential data between all parts of the juvenile justice system. Such data
31 exchange shall be limited based on the needs of the user accessing the
32 data. Such method of exchanging data shall take into consideration sharing
33 data that is necessary for continuity of treatment and correctional
34 programs, including, but not limited to, health care requirements, mental
35 health care needs and history, substance abuse treatment and history,
36 recommendations for emergency placement options and any other
37 information to assist in providing proper care to the juvenile. The
38 department of corrections is authorized to use grant funds, allocated state
39 funds or any other accessible funding necessary to create such data
40 exchange system. All state and local programs involved in the care of
41 juveniles involved in the juvenile justice system or the child in need of
42 care system shall cooperate in the development and utilization of such
43 system.

1 (2) *On or before July 1, ~~2023~~ 2024, the department of corrections*
2 *shall develop a system to facilitate the exchanging of confidential data*
3 *described in paragraph (1). The department shall report to the joint*
4 *committee on corrections and juvenile justice oversight, the house of*
5 *representatives standing committee on corrections and juvenile justice, the*
6 *house of representatives standing committee on appropriations, the senate*
7 *standing committee on judiciary and the senate standing committee on*
8 *ways and means on the progress of development on or before the first day*
9 *of the ~~2022~~ 2023 regular session of the legislature.*

10 (b) The department of corrections shall establish and maintain a
11 statewide searchable database that contains information regarding
12 juveniles who participate in an immediate intervention program. County
13 and district attorneys, judges, community supervision officers and juvenile
14 intake and assessment workers shall have access to the database and shall
15 submit necessary data to such database. The department of corrections
16 shall, in consultation with the office of judicial administration, adopt rules
17 and regulations to carry out the provisions of this subsection.

18 Sec. ~~6~~ 8. K.S.A. 75-52,164 is hereby amended to read as follows: 75-
19 52,164. (a) (1) There is hereby established in the state treasury the
20 evidence-based programs account of the state general fund, which shall be
21 administered by the department of corrections. All expenditures from the
22 evidence-based programs account of the state general fund shall be for the
23 development and implementation of evidence-based community programs
24 and practices for:

- 25 (A) Juvenile offenders; and their families;
26 (B) juveniles experiencing mental health crisis and their families;
27 (C) children who have been administered a risk and needs
28 assessment and have been identified as needing services pursuant to
29 section 1, and amendments thereto; and
30 (D) grants as provided in subsection (e).

31 (2) *Evidence-based community programs and practices may be*
32 *administered by community supervision offices, ~~including, but not limited~~*
33 *to, juvenile intake and assessment, court services, community corrections*
34 *and, juvenile crisis intervention centers, community mental health centers*
35 *and any other community-based service provider offering evidence-based*
36 *community programs.*

37 (3) All expenditures from the evidence-based programs account of
38 the state general fund shall be made in accordance with appropriation acts
39 upon warrants of the director of accounts and reports issued pursuant to
40 vouchers approved by the secretary of corrections or the secretary's
41 designee.

42 (b) At least annually, throughout the year, the secretary of corrections
43 shall determine and certify to the director of accounts and reports the

1 amount in each account of the state general fund of a state agency that has
2 been determined by the secretary to be actual or projected cost savings as a
3 result of cost avoidance resulting from decreased reliance on incarceration
4 in the juvenile correctional facility and placement in youth residential
5 centers. The baseline shall be calculated on the cost of incarceration and
6 placement in fiscal year 2015.

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

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

17 ~~(e) During fiscal years 2017 and 2018, the secretary of corrections~~
18 ~~shall transfer an amount not to exceed \$8,000,000 from appropriated~~
19 ~~department of corrections moneys from the state general fund or any~~
20 ~~available special revenue fund or funds that are budgeted for the purposes~~
21 ~~of facilitating the development and implementation of new community~~
22 ~~placements in conjunction with the reduction in out-of-home placements.~~
23 *The secretary of corrections shall develop and implement a grant program*
24 *with the goal of implementing evidence-based community programs*
25 *described in subsection (a) throughout the state, subject to the availability*
26 *of funding in the evidence-based programs account of the state general*
27 *fund. The secretary shall adopt grant requirements in accordance with this*
28 *section. Any provider of evidence-based community programs for juveniles*
29 *may apply for a grant. The grant program shall give priority to any county*
30 *that demonstrates a low availability of evidence-based community*
31 *programs for juveniles. The secretary shall evaluate the programs that*
32 *received a grant to ensure the program is being delivered as such program*
33 *was designed.*

34 (f) *Expenditures made from the evidence-based programs account of*
35 *the state general fund shall be made promptly and on a rolling basis to*
36 *develop and implement evidence-based community programs as services*
37 *are needed throughout the state.*

38 (f)(g) The evidence-based programs account of the state general fund
39 and any other moneys transferred pursuant to this section shall be used for
40 the purposes set forth in this section and for no other governmental
41 purposes. It is the intent of the legislature that the funds and the moneys
42 deposited in this fund shall remain intact and inviolate for the purposes set
43 forth in this section.

1 Sec. ~~7~~ **9**. K.S.A. **38-2203, 38-2304, 38-2361, 38-2391, 38-2392**, 75-
2 52,162 and 75-52,164 and K.S.A. 2020 Supp. ~~38-2203, 38-2304 and 38-~~
3 ~~2391~~ are hereby repealed.

4 Sec. ~~8~~ **10**. This act shall take effect and be in force from and after its
5 publication in the statute book.