

HOUSE BILL No. 2021

By Committee on Corrections and Juvenile Justice

1-11

Proposed Amendments to HB 2021 - detention sanctions
House Committee on Corrections and Juvenile Justice
Prepared by the Office of Revisor of Statutes
February 8, 2023

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 data systems;
5 increasing use of evidence-based programs account money; ~~authorizing~~
6 ~~detention sanctions for probation violations~~; increasing the cumulative
7 detention cap; amending K.S.A. 38-2203, 38-2304, 38-2361, 38-2391,
8 ~~38-2392~~, 75-52,162 and 75-52,164 and repealing the existing sections.
9

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

11 New Section 1. (a) On or before October 1, 2023, the secretary of
12 corrections and the secretary for children and families shall enter into a
13 memorandum of understanding to coordinate administering a risk and
14 needs assessment, as defined in K.S.A. 38-2302, and amendments thereto,
15 to children who have been identified as exhibiting behavior that could lead
16 to offending behavior during the course of a child in need of care
17 proceeding.

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

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

26 Sec. 2. K.S.A. 38-2203 is hereby amended to read as follows: 38-
27 2203. (a) Proceedings concerning any child who may be a child in need of
28 care shall be governed by this code, except in those instances when the
29 court knows or has reason to know that an Indian child is involved in the
30 proceeding, in which case, the Indian child welfare act of 1978, 25 U.S.C.
31 § 1901 et seq., applies. The Indian child welfare act may apply to: The
32 filing to initiate a child in need of care proceeding, K.S.A. 38-2234, and
33 amendments thereto; ex parte custody orders, K.S.A. 38-2242, and
34 amendments thereto; temporary custody hearing, K.S.A. 38-2243, and
35 amendments thereto; adjudication, K.S.A. 38-2247, and amendments
36 thereto; burden of proof, K.S.A. 38-2250, and amendments thereto;

1 disposition, K.S.A. 38-2255, and amendments thereto; permanency
2 hearings, K.S.A. 38-2264, and amendments thereto; termination of
3 parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and amendments
4 thereto; establishment of permanent custodianship, K.S.A. 38-2268 and
5 38-2272, and amendments thereto; the placement of a child in any foster,
6 pre-adoptive and adoptive home and the placement of a child in a
7 guardianship arrangement under article 30 of chapter 59 of the Kansas
8 Statutes Annotated, and amendments thereto.

9 (b) Subject to the uniform child custody jurisdiction and enforcement
10 act, K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments
11 thereto, the district court shall have original jurisdiction of proceedings
12 pursuant to this code.

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

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

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

38 (f) A court's order issued in a proceeding pursuant to this code, shall
39 take precedence over such orders in a civil custody case, a proceeding
40 under article 31 of chapter 60 of the Kansas Statutes Annotated, and
41 amendments thereto, protection from abuse act, or a comparable case in
42 another jurisdiction, except as provided by K.S.A. 2022 Supp. 23-37,101
43 through 23-37,405, and amendments thereto, uniform child custody

1 jurisdiction and enforcement act.

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

9 Sec. 3. K.S.A. 38-2304 is hereby amended to read as follows: 38-
10 2304. (a) Except as provided in K.S.A. 38-2347, and amendments thereto,
11 proceedings concerning a juvenile shall be governed by the provisions of
12 this code.

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

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

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

20 (1) The complaint is dismissed;

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

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

23 (i) Successfully completes the term of probation;

24 (ii) is discharged by the secretary pursuant to K.S.A. 38-2376, and
25 amendments thereto;

26 (iii) reaches the juvenile's 21st birthday and no exceptions apply that
27 extend jurisdiction beyond ~~age~~ 21 *years of age*; or

28 (iv) reaches the overall case length limit;

29 (4) the court terminates jurisdiction; or

30 (5) the juvenile is convicted of a crime as an adult pursuant to chapter
31 22 of the Kansas Statutes Annotated, and amendments thereto.

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

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

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

42 (f) Termination of jurisdiction pursuant to this section shall have no
43 effect on the juvenile offender's continuing responsibility to pay restitution

1 ordered.

2 (g) (1) If a juvenile offender, at the time of sentencing, is in an ~~out of~~
3 ~~home out-of-home~~ placement in the custody of the secretary for children
4 and families under the Kansas code for care of children, the sentencing
5 court may order the continued placement of the juvenile offender as a child
6 in need of care.

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

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

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

26 (i) A court's order issued in a proceeding pursuant to this code; shall
27 take precedence over such orders in a proceeding under chapter 23 of the
28 Kansas Statutes Annotated, and amendments thereto, the Kansas family
29 law code, a proceeding under article 31 of chapter 60 of the Kansas
30 Statutes Annotated, and amendments thereto, protection from abuse act, a
31 proceeding under article 21 of chapter 59 of the Kansas Statutes
32 Annotated, and amendments thereto, adoption and relinquishment act, a
33 proceeding under article 30 of chapter 59 of the Kansas Statutes
34 Annotated, and amendments thereto, guardians and conservators, or a
35 comparable case in another jurisdiction, except as provided by K.S.A.
36 2022 Supp. 23-37,101 et seq., and amendments thereto, uniform child
37 custody jurisdiction and enforcement act.

38 Sec. 4. K.S.A. 38-2361 is hereby amended to read as follows: 38-
39 2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 38-
40 2356, and amendments thereto, modification of sentence pursuant to
41 K.S.A. 38-2367, and amendments thereto, or violation of a condition of
42 sentence pursuant to K.S.A. 38-2368, and amendments thereto, the court
43 may impose one or more of the following sentencing alternatives for a

1 fixed period pursuant to K.S.A. 38-2369 and 38-2391, and amendments
2 thereto.

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

14 (2) Order the juvenile to participate in a community based program
15 available in such judicial district subject to the terms and conditions the
16 court deems appropriate. This alternative shall not be ordered with the
17 alternative in paragraph (11). Requirements pertaining to child support
18 may apply if custody is vested with other than a parent.

19 (3) Place the juvenile in the custody of a parent or other suitable
20 person, which is not a group home or other facility licensed pursuant to
21 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
22 thereto, subject to terms and conditions consistent with juvenile justice
23 programs in the community. This alternative shall not be ordered with the
24 alternative in paragraph (11). Requirements pertaining to child support
25 may apply if custody is vested with other than a parent.

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

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

31 (6) Order the juvenile to perform charitable or community service
32 work.

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

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

37 (9) Place the juvenile under a house arrest program administered by
38 the court pursuant to K.S.A. 2022 Supp. 21-6609, and amendments
39 thereto.

40 (10) Place the juvenile in the custody of the secretary of corrections
41 as provided in K.S.A. 38-2365, and amendments thereto. This alternative
42 shall not be ordered with the alternative in paragraph (3) or (12). Except
43 for mandatory drug and alcohol evaluation, when this alternative is

1 ordered with alternatives in paragraphs (2), (4) and (9), such orders shall
2 constitute a recommendation by the court. Requirements pertaining to
3 child support shall apply under this alternative. The provisions of this
4 paragraph shall expire on January 1, 2018.

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

9 (12) If the judge finds and enters into the written record that the
10 juvenile poses a significant risk of harm to another or damage to property,
11 and the juvenile is otherwise eligible for commitment pursuant to K.S.A.
12 38-2369, and amendments thereto, commit the juvenile directly to the
13 custody of the secretary of corrections for placement in a juvenile
14 correctional facility or a youth residential facility. Placement in a youth
15 residential facility shall only be permitted as authorized in K.S.A. 38-
16 2369(e), and amendments thereto. If the court elects, a period of
17 conditional release pursuant to K.S.A. 38-2369, and amendments thereto,
18 may also be ordered. The period of conditional release shall be limited to a
19 maximum of six months and shall be subject to graduated responses.
20 Twenty-one days prior to the juvenile's release from a juvenile correctional
21 facility, the secretary of corrections or designee shall notify the court of the
22 juvenile's anticipated release date. This alternative may be ordered with the
23 alternative in paragraph (7). Requirements pertaining to child support shall
24 apply under this alternative.

25 (13) Upon a finding by the trier of fact during adjudication that a
26 firearm was used in the commission of an offense by the accused which, if
27 committed by an adult, would constitute a felony, a judge may commit the
28 juvenile directly to the custody of the secretary of corrections for
29 placement in a juvenile correctional facility or youth residential facility for
30 a minimum term of six months and up to a maximum term of 18 months,
31 regardless of the risk level of such juvenile as determined by a risk and
32 needs assessment. If the juvenile is committed to the custody of the
33 secretary, and the court elects, a period of conditional release, pursuant to
34 K.S.A. 38-2369, and amendments thereto, may also be ordered. The period
35 of conditional release shall be limited to a maximum of six months and
36 shall be subject to graduated responses. Twenty-one days prior to the
37 juvenile's release from a juvenile correctional facility or youth residential
38 facility, the secretary of corrections or the secretary's designee shall notify
39 the court of the juvenile's anticipated release date.

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

43 (1) The court may order the juvenile offender to participate in

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

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

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

35 (1) The duration of the suspension ordered by the court shall be for a
36 definite time period to be determined by the court. Upon suspension of a
37 license pursuant to this subsection, the court shall require the juvenile
38 offender to surrender the license to the court. The court shall transmit the
39 license to the division of motor vehicles of the department of revenue, to
40 be retained until the period of suspension expires. At that time, the licensee
41 may apply to the division for return of the license. If the license has
42 expired, the juvenile offender may apply for a new license, which shall be
43 issued promptly upon payment of the proper fee and satisfaction of other

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

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

1 driver's license or privilege to operate a motor vehicle on the streets and
2 highways of this state shall be revoked for a period as determined by the
3 court in which the juvenile offender is convicted of violating such
4 conditions.

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

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

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

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

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

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

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

39 (f) Before the court sentences a juvenile offender pursuant to
40 subsection (a), the court shall administer a risk assessment tool, as
41 described in K.S.A. 38-2360, and amendments thereto, or review a risk
42 assessment tool that was administered within the past six months to the
43 juvenile and use the results of that assessment to inform orders made

1 pursuant to K.S.A. 38-2369 and 38-2391, and amendments thereto.

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

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

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

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

16 (4) Cumulative detention use shall be limited to a maximum of ~~45~~ 90
17 days over the course of a juvenile offender's case pursuant to K.S.A. 38-
18 2391, and amendments thereto. The court shall review any detention
19 commitment every seven days and may shorten the initial commitment or
20 extend the commitment. In no case, however, may the term of detention or
21 any extension thereof exceed the cumulative detention limit of ~~45~~ 90 days
22 or the overall case length limit.

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

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

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

36 (j) Except as further provided, if a juvenile has been adjudged to be a
37 juvenile offender for an offense which, if committed by an adult would
38 constitute the commission of: (1) Aggravated human trafficking, as defined
39 in K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if the victim is
40 less than 14 years of age; (2) rape, as defined in K.S.A. 2022 Supp. 21-
41 5503(a)(3), and amendments thereto; (3) aggravated indecent liberties with
42 a child, as defined in K.S.A. 2022 Supp. 21-5506(b)(3), and amendments
43 thereto; (4) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp.

1 21-5504(b)(1) or (b)(2), and amendments thereto; (5) commercial sexual
2 exploitation of a child, as defined in K.S.A. 2022 Supp. 21-6422, and
3 amendments thereto, if the victim is less than 14 years of age; (6) sexual
4 exploitation of a child, as defined in K.S.A. 2022 Supp. 21-5510(a)(1) or
5 (a)(4), and amendments thereto, if the victim is less than 14 years of age;
6 or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.
7 2022 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an
8 offense defined in paragraphs (1) through (6); the court shall issue an order
9 prohibiting the juvenile from attending the attendance center that the
10 victim of the offense attends. If only one attendance center exists, for
11 which the victim and juvenile are eligible to attend, in the school district
12 where the victim and the juvenile reside, the court shall hear testimony and
13 take evidence from the victim, the juvenile, their families and a
14 representative of the school district as to why the juvenile should or should
15 not be allowed to remain at the attendance center attended by the victim.
16 After such hearing, the court may issue an order prohibiting the juvenile
17 from attending the attendance center that the victim of the offense attends.

18 (k) The court may order a short-term alternative placement of a
19 juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic
20 foster home or community integration program if:

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

24 (A) Aggravated human trafficking, as defined in K.S.A. 2022 Supp.
25 21-5426(b), and amendments thereto, if the victim is less than 14 years of
26 age;

27 (B) rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments
28 thereto;

29 (C) commercial sexual exploitation of a child, as defined in K.S.A.
30 2022 Supp. 21-6422, and amendments thereto, if the victim is less than 14
31 years of age;

32 (D) sexual exploitation of a child, as defined in K.S.A. 2022 Supp.
33 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than
34 14 years of age;

35 (E) aggravated indecent liberties with a child, as defined in K.S.A.
36 2022 Supp. 21-5506, and amendments thereto, if the victim is less than 14
37 years of age; or

38 (F) an attempt, conspiracy or criminal solicitation, as defined in
39 K.S.A. 2022 Supp. 21-5301, 21-5302 or 21-5303, and amendments
40 thereto, of an offense defined in paragraphs (1) through (4); and

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

42 (B) a community supervision officer in consultation with the
43 department for children and families determines that an adequate safety

1 plan, which shall include the physical and psychological well-being of the
2 victim, cannot be developed to keep the juvenile in the same home; and

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

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

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

15 (m) The overall case length limit shall be calculated by the court and
16 entered into the written record when one or more of the sentencing options
17 under this section are imposed. The period fixed by the court pursuant to
18 subsection (a) shall not extend beyond the overall case length limit.

19 Sec. 5. K.S.A. 38-2391 is hereby amended to read as follows: 38-
20 2391. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 38-
21 2356, and amendments thereto, modification of sentence pursuant to
22 K.S.A. 38-2367, and amendments thereto, or violation of a condition of
23 sentence pursuant to K.S.A. 38-2368, and amendments thereto, the court
24 may impose one or more of the sentencing alternatives under K.S.A. 38-
25 2361, and amendments thereto, for a period of time pursuant to this section
26 and K.S.A. 38-2369, and amendments thereto. The period of time ordered
27 by the court shall not exceed the overall case length limit.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (3) The probation term limits do not apply to those offenders
42 adjudicated for an offense which, if committed by an adult, would
43 constitute an off-grid crime, rape as defined in K.S.A. 2022 Supp. 21-

1 5503(a)(1), and amendments thereto, aggravated criminal sodomy as
2 defined in K.S.A. 2022 Supp. 21-5504(b)(3), and amendments thereto, or
3 murder in the second degree as defined in K.S.A. 2022 Supp. 21-5403, and
4 amendments thereto. Such offenders may be placed on probation for a
5 term consistent with the overall case length limit.

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

11 (h) For the purpose of placing juvenile offenders in detention
12 pursuant to K.S.A. 38-2361 and 38-2369, and amendments thereto, the
13 court shall establish a specific term of detention. The term of detention
14 shall not exceed the overall case length limit or the cumulative detention
15 limit. Cumulative detention use shall be limited to a maximum of ~~45~~ 90
16 days over the course of the juvenile offender's case, except that there shall
17 be no limit on cumulative detention for juvenile offenders adjudicated for
18 a felony which, if committed by an adult, would constitute an off-grid
19 felony or a nondrug severity level 1 through 4 person felony.

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

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

28 ~~Sec. 6. K.S.A. 38-2392 is hereby amended to read as follows: 38-~~
29 ~~2392. (a) The department of corrections shall, in consultation with the~~
30 ~~supreme court, adopt rules and regulations by January 1, 2017, for a~~
31 ~~statewide system of structured community-based graduated responses for~~
32 ~~technical violations of probation, violations of conditional release and~~
33 ~~violations of a condition of sentence by juveniles. Such graduated~~
34 ~~responses shall be utilized by community supervision officers to provide a~~
35 ~~continuum of community-based responses. These responses shall include~~
36 ~~sanctions that are swift and certain to address violations based on the~~
37 ~~severity of the violation as well as incentives that encourage positive~~
38 ~~behaviors. Such responses shall take into account the juvenile's risks and~~
39 ~~needs.~~

40 ~~(b) (1) Except as provided in paragraph (4), when a juvenile is placed~~
41 ~~on probation pursuant to K.S.A. 38-2361, and amendments thereto,~~
42 ~~community supervision officers shall utilize graduated responses, targeted~~
43 ~~to the juvenile's risks and needs based on the results of a risk and needs~~

Remove Section 6
and renumber
sections

1 ~~assessment to address technical violations. A technical violation shall only~~
2 ~~be considered by the court for revocation if:~~

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

4 ~~(2)(B) prior failed responses are documented in the juvenile's case~~
5 ~~plan; and~~

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

8 ~~(2) Unless a juvenile poses a significant risk of physical harm to~~
9 ~~another or damage to property, community supervision officers shall issue~~
10 ~~a summons rather than request a warrant on a third or subsequent technical~~
11 ~~violation subject to review by the court.~~

12 ~~(3) Absconding from supervision shall not be considered a technical~~
13 ~~violation of probation and, after reasonable efforts to locate a juvenile that~~
14 ~~has absconded are unsuccessful, the court may issue a warrant for the~~
15 ~~juvenile pursuant to K.S.A. 38-2342, and amendments thereto.~~

16 ~~(4) When a juvenile is placed on probation pursuant to K.S.A. 38-~~
17 ~~2361, and amendments thereto, a judge may commit such juvenile to~~
18 ~~detention for a violation of probation, including a technical violation, and~~
19 ~~for contempt of court. A juvenile may be committed to detention for a~~
20 ~~period not to exceed:~~

21 ~~(A) 24 hours for a first violation;~~

22 ~~(B) 48 hours for a second violation; and~~

23 ~~(C) 15 days for a third or subsequent violation.~~

24 ~~(c) When a juvenile is placed on probation pursuant to K.S.A. 38-~~
25 ~~2361, and amendments thereto, the community supervision officer~~
26 ~~responsible for oversight of the juvenile shall develop a case plan in~~
27 ~~consultation with the juvenile and the juvenile's family. The department for~~
28 ~~children and families and local board of education may participate in the~~
29 ~~development of the case plan when appropriate.~~

30 ~~(1) Such case plan shall incorporate the results of the risk and needs~~
31 ~~assessment, referrals to programs, documentation on violations and~~
32 ~~graduated responses and shall clearly define the role of each person or~~
33 ~~agency working with the juvenile.~~

34 ~~(2) If the juvenile is later committed to the custody of the secretary,~~
35 ~~the case plan shall be shared with the juvenile correctional facility.~~

36 ~~(d) This section shall be a part of and supplemental to the revised~~
37 ~~Kansas juvenile justice code.~~

38 Sec. 7. K.S.A. 75-52,162 is hereby amended to read as follows: 75-
39 52,162. (a) (1) The department of corrections and the Kansas juvenile
40 justice oversight committee shall explore methods of exchanging
41 confidential data between all parts of the juvenile justice system. Such data
42 exchange shall be limited based on the needs of the user accessing the
43 data. Such method of exchanging data shall take into consideration sharing

1 data that is necessary for continuity of treatment and correctional
2 programs, including, but not limited to, health care requirements, mental
3 health care needs and history, substance abuse treatment and history,
4 recommendations for emergency placement options and any other
5 information to assist in providing proper care to the juvenile. The
6 department of corrections is authorized to use grant funds, allocated state
7 funds or any other accessible funding necessary to create such data
8 exchange system. All state and local programs involved in the care of
9 juveniles involved in the juvenile justice system or the child in need of
10 care system shall cooperate in the development and utilization of such
11 system.

12 *(2) On or before July 1, 2025, the department of corrections shall*
13 *develop a system to facilitate the exchanging of confidential data*
14 *described in paragraph (1). The department shall report to the joint*
15 *committee on corrections and juvenile justice oversight, the house of*
16 *representatives standing committee on corrections and juvenile justice, the*
17 *house of representatives standing committee on appropriations, the senate*
18 *standing committee on judiciary and the senate standing committee on*
19 *ways and means on the progress of development on or before the first day*
20 *of the 2024 regular session of the legislature.*

21 (b) The department of corrections shall establish and maintain a
22 statewide searchable database that contains information regarding
23 juveniles who participate in an immediate intervention program. County
24 and district attorneys, judges, community supervision officers and juvenile
25 intake and assessment workers shall have access to the database and shall
26 submit necessary data to such database. The department of corrections
27 shall, in consultation with the office of judicial administration, adopt rules
28 and regulations to carry out the provisions of this subsection.

29 Sec. 8. K.S.A. 75-52,164 is hereby amended to read as follows: 75-
30 52,164. (a) (1) There is hereby established in the state treasury the
31 evidence-based programs account of the state general fund, which shall be
32 administered by the department of corrections. All expenditures from the
33 evidence-based programs account of the state general fund shall be for the
34 development and implementation of evidence-based community programs
35 and practices for:

36 (A) Juvenile offenders; and their families;

37 (B) juveniles experiencing mental health crisis and their families;

38 (C) children who have been administered a risk and needs
39 assessment and have been identified as needing services pursuant to
40 section 1, and amendments thereto; and

41 (D) grants as provided in subsection (e).

42 (2) Evidence-based community programs and practices may be
43 administered by community supervision offices, ~~including, but not limited~~

1 to; juvenile intake and assessment, court services, community corrections
2 and, juvenile crisis intervention centers, *community mental health centers*
3 *and any other community-based service provider offering evidence-based*
4 *community programs.*

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

10 (b) At least annually, throughout the year, the secretary of corrections
11 shall determine and certify to the director of accounts and reports the
12 amount in each account of the state general fund of a state agency that has
13 been determined by the secretary to be actual or projected cost savings as a
14 result of cost avoidance resulting from decreased reliance on incarceration
15 in the juvenile correctional facility and placement in youth residential
16 centers. The baseline shall be calculated on the cost of incarceration and
17 placement in fiscal year 2015.

18 (c) Upon receipt of a certification pursuant to subsection (b), the
19 director of accounts and reports shall transfer the amount certified
20 pursuant to subsection (b) from each account of the state general fund of a
21 state agency that has been determined by the secretary of corrections to be
22 actual or projected cost savings to the evidence-based programs account of
23 the state general fund.

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

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

1 *was designed.*

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

6 (g) The evidence-based programs account of the state general fund
7 and any other moneys transferred pursuant to this section shall be used for
8 the purposes set forth in this section and for no other governmental
9 purposes. It is the intent of the legislature that the funds and the moneys
10 deposited in this fund shall remain intact and inviolate for the purposes set
11 forth in this section.

12 Sec. 9. K.S.A. 38-2203, 38-2304, 38-2361, 38-2391, ~~38-2392~~, 75-
13 52,162 and 75-52,164 are hereby repealed.

14 Sec. 10. This act shall take effect and be in force from and after its
15 publication in the statute book.

strike