

Testimony of Lindsey E. Smith, Esq., Juvenile Law Center  
Senate Committee on Judiciary: HB2021  
March 8, 2023

We thank the Committee for its continued leadership on juvenile justice. We write to strongly recommend two amendments to HB2021. As written, HB2021 would increase incarceration of Kansas children before they have even been found delinquent of an offense, with detrimental effects on children’s rehabilitation as well as public safety.

Detaining children increases the risk of recidivism, academic failure, and trauma:<sup>1</sup>

**Increased recidivism.** Children who are detained are **up to three times as likely to reoffend** as non-detained children.<sup>2</sup> Longer periods of incarceration make this problem worse: A 2020 study found that every additional day spent in detention increased the odds of felony recidivism by one percentage point.<sup>3</sup>

**Worsened academic outcomes.** Sixty percent of children who are detained do not return to school or drop out within five months.<sup>4</sup> They also receive fewer special education services and instruction hours.<sup>5</sup>

**Trauma and illness:** One in three detained youth who are diagnosed with depression developed the condition after detention placement.<sup>6</sup> Child detention is also correlated with higher odds of poor adult health.<sup>7</sup>

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<sup>1</sup> See, e.g., Mendel, R.A. (2022). Why Youth Incarceration Fails: An Updated Review of the Evidence. Annie E. Casey Foundation. Mendel, R.A. (2011). No Place for Kids: The Case for Reducing Juvenile Incarceration. Annie E. Casey Foundation.

<sup>2</sup> Nat’l Juvenile Defender Ctr., The Harms of Juvenile Detention (2016), <https://njdc.info/wp-content/uploads/2016/10/The-Harms-of-Juvenile-Detention.pdf>. Rodriguez, N. (2010). The cumulative effect of race and ethnicity in juvenile court outcomes and why preadjudication detention matters. *Journal of Research in Crime and Delinquency*, 47(3), 391-413.

<sup>3</sup> Walker, S. C., & Herting, J. R. (2020). The impact of pretrial juvenile detention on 12-month recidivism: A matched comparison study. *Crime & Delinquency*, 66(13-14), 1865-1887. See also Lovins, B. K. (2013). Putting wayward kids behind bars: The impact of length of stay in a custodial setting on recidivism. University of Cincinnati.

<sup>4</sup> Nat’l Juvenile Defender Ctr., The Harms of Juvenile Detention (2016), <https://njdc.info/wp-content/uploads/2016/10/The-Harms-of-Juvenile-Detention.pdf>. See also Hjalmarsson, R. (2008). Criminal justice involvement and high school completion. *Journal of Urban Economics*, 63(2), 613-630. Baron, J.B., Jacob, B. & Ryan, J.P. (2022). Pretrial Juvenile Detention. NBER Working Paper No. 29861.

<sup>5</sup> Kareem I. Jordan, U.S. Dep’t of Justice, Office of Juvenile Justice and Delinquency Program, Preventive Detention and Out-of-Home Placement: A Propensity Score Matching and Multilevel Modeling Approach (Fall 2012).

<sup>6</sup> Nat’l Juvenile Defender Ctr., The Harms of Juvenile Detention (2016), <https://njdc.info/wp-content/uploads/2016/10/The-Harms-of-Juvenile-Detention.pdf>.

<sup>7</sup> Barnert, E. S., Dudovitz, R., Nelson, B. B., Coker, T. R., Biely, C., Li, N., & Chung, P. J. (2017). How does incarcerating young people affect their adult health outcomes?. *Pediatrics*, 139(2).

Two proposed amendments will ensure this bill moves Kansas in the right direction.

**Proposed Amendment #1: Keep case limit for detention at 45 days, rather than expanding it to 90 days. K.S.A. 38-2361(g)(4); HB2021 at p. 10.**

Doubling the detention case limit to 90 days from the current 45-day limit would worsen the negative outcomes of trauma, academic failure, and increased recidivism outlined above.

**Proposed Amendment #2: Remove proposed section K.S.A. 38-2392(b)(4), allowing a child to be jailed for a technical parole violation or contempt of court and overriding the existing requirement of community-based, graduated sanctions based on a child's needs. HB2021 at pp. 14-15.**

Current K.S.A. 38-2392 requires graduated community-based responses to technical violations of probation as well as other violations of conditions, calibrated to meet a child's risks and needs. Technical violations are violations of probation rules, not new offenses, and detention is not an appropriate response to these violations—especially because other provisions of Kansas law only authorize detention where necessary to ensure a child returns to court or where there is a serious threat to people or property. K.S.A. 38-2392(b).

Proposed section K.S.A. 38-2392(b)(4) would gut these thoughtful protections and instead permit a child to be detained solely for minor issues like technical probation violations, increasing the risks outlined above including a negative impact on public safety.

We urge the Committee to make these two amendments to HB2021 keep Kansas children in their families and communities, instead of in expensive, ineffective, and unsafe detention facilities.

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Juvenile Law Center thanks the Committee for its leadership in creating a more fair and effective juvenile justice system. If you have any questions, please feel free to reach out to Lindsey E. Smith, staff attorney, at (215) 851-8900 or [lsmith@jlc.org](mailto:lsmith@jlc.org).