

Revised Juvenile Justice Code—Alternative Adjudication Procedure, Risk Assessment, Prosecution of a Juvenile as an Adult, Placement Matrix, Good Time; Revised Code for Care of Children—Placement in Juvenile Detention Facility, Permanent Custody Options; Youth Residential Centers; Senate Sub. for HB 2588

Senate Sub. for HB 2588 creates new law and amends existing statutes relating to juvenile placement, the Revised Kansas Juvenile Justice Code, and the Revised Kansas Code for Care of Children.

Alternative Adjudication Procedure

The bill creates a new section in the Revised Kansas Juvenile Justice Code establishing an alternative adjudication procedure for misdemeanor-level juvenile offenses.

The bill states the Legislature’s findings that certain circumstances may lead to offenses by juveniles who are a minimal threat to public safety, and in such cases it would further the interests of society and the juvenile to use an adjudication approach with less formal procedures, appropriate disciplinary sanctions, and provision of necessary services. The bill declares its purpose is to provide prosecutors with an alternative means of adjudication for juvenile offenders who are a minimal threat to public safety, for the benefit of the juvenile and society.

The bill allows a county or district attorney with jurisdiction over a misdemeanor-level offense to designate the alleged offender for the alternative adjudication either through the original complaint or by written notice filed with the court and services on the juvenile, juvenile’s counsel, and juvenile’s parent or legal guardian within 14 days of filing the complaint. Filing of a written application for diversion tolls the running of the 14-day period and resumes upon written denial of diversion.

The bill specifies that the Revised Juvenile Justice Code applies in the adjudication, with the following exceptions:

- If the court determines during the proceeding that there is probable cause to believe the child is a child in need of care (CINC), the court shall refer the matter to the county or district attorney, who shall file a CINC petition. The court also must refer the family to the Department for Children and Families for services. If the court finds the juvenile should be removed from the home, the court is allowed to place the juvenile in the temporary custody of the Secretary for Children and Families or any person willing to accept temporary custody, other than the child’s parent. If the CINC case is presided over by a different judge, the county or district attorney is required to notify the court presiding over the proceeding under this section of pertinent orders in the CINC case;
- The court shall not commit the juvenile to a juvenile correctional facility for the offense or for a violation of a term or condition of disposition;

- The adjudication or violation of the terms and conditions of disposition, including placement failure, may not be used against the juvenile in a proceeding for a subsequent juvenile or adult offense. “Used against the juvenile” is defined;
- Upon completion of the case and termination of the court’s jurisdiction, the court is required to order the adjudication expunged. The adjudication shall not be subject to provisions for retention in court files or law enforcement records, and other expungement requirements, limitations, and disclosure provisions shall not apply;
- The juvenile shall not be required to register as an offender as a result of the adjudication;
- The juvenile shall not be prosecuted as an adult or under extended jurisdiction juvenile provisions;
- Limitations on continued out-of-home placement shall not apply; and
- Trial under the alternative adjudication procedure would be to the court, and the right to trial by jury shall not apply.

The county or district attorney may withdraw the designation for alternative adjudication proceedings at any time prior to the beginning of a hearing at which the court could enter an order adjudicating the child as a juvenile offender, by providing notice to the court, the juvenile, the juvenile’s attorney and guardian *ad litem*, if any, and the juvenile’s parent or legal guardian. The section then would no longer apply; the case would proceed; and the court would be able to grant a continuance upon request.

An adjudication under this procedure is an appealable order under the Code.

Placement in Juvenile Detention Centers

The bill creates new law within the Revised Kansas Code for Care of Children prohibiting a child alleged or found to be a child in need of care from being placed in a juvenile detention facility, unless such placement is necessary to protect the safety of the child and is authorized under certain sections of the Code, or the child is also alleged to be a juvenile offender and such placement is authorized by certain provisions within the Revised Kansas Juvenile Justice Code.

Youth Residential Centers

The bill also creates new law requiring the Secretary of Corrections to take certain actions and report those actions to the House Committee on Corrections and Juvenile Justice, the Senate Committee on Federal and State Affairs, and the Joint Committee on Corrections and Juvenile Justice Oversight by January 15, 2015. The required actions include:

- Conducting a cost study analysis of all youth residential centers (YRCs) for juvenile offenders under contract with the Department of Corrections, including detailed analysis of allowable expenses necessary to meet certain minimum requirements and identification of costs associated with program or other expenses that add value to services provided to juvenile offenders by YRCs beyond minimum requirements;
- Evaluating program needs within YRCs, comparing these needs with availability, and proposing modifications to align availability with needs;
- Developing a fee schedule for youth residential services, including daily payment rates for base services and rates for additions to base services;
- Developing a plan for performance-based incentive payment opportunities and a plan for integration of these payment opportunities into the fee schedule described above; and
- Developing a plan to measure performance and evaluate effectiveness of juvenile offender service providers.

Removal of Secretary for Children and Families as a Permanent Custody Option

The bill amends the Revised Kansas Code for Care of Children to remove the Secretary for Children and Families as a permanent custody option upon the relinquishment of parental rights.

Amendments to the Revised Juvenile Justice Code

The bill requires that when a pre-sentence investigation and report from a court services officer is ordered by a court after adjudication, the report is required to include a summary of the results from a standardized risk assessment tool or instrument, in addition to the contents required under existing law. The statute within the Kansas Criminal Code establishing the Correctional Supervision Fund is amended to allow moneys from the Fund to be used for the implementation of and training for use of a statewide, mandatory, standardized risk assessment tool or instrument for juveniles adjudicated to be juvenile offenders and for juvenile offender supervision programs.

The bill prohibits the prosecution of any juvenile less than 12 years of age as an adult.

The placement matrix category of serious offender II is amended to include only offenders adjudicated for an offense which would constitute a nondrug severity level 7, person felony with one prior felony adjudication. Under previous law this category also included severity levels 8, 9, and 10. The bill places severity levels 8, 9, and 10 within a new category designated “serious offender III.”

The placement matrix options for the category of serious offender III are the same as those for serious offender II, except offenders within the category of serious offender III may be

committed to a juvenile correctional facility only if the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence. The bill amends the placement matrix options for all levels of chronic offenders to include the same departure provision.

Finally, provisions excluding juvenile offenders serving minimum-term placement sentences imposed under the placement matrix from the “good time” system are removed.