

**HOUSE BILL No. 2336**

By Committee on Corrections and Juvenile Justice

2-12

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1 AN ACT concerning children and minors; relating to juvenile offenders;  
2 risk assessment tool; amending K.S.A. 2014 Supp. 38-2361 and 38-  
3 2369 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 38-2361 is hereby amended to read as  
7 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to  
8 K.S.A. 2014 Supp. 38-2356, and amendments thereto, modification of  
9 sentence pursuant to K.S.A. 2014 Supp. 38-2367, and amendments thereto,  
10 or violation of a condition of sentence pursuant to K.S.A. 2014 Supp. 38-  
11 2368, and amendments thereto, and subject to ~~subsection (a)~~ of K.S.A.  
12 2014 Supp. 38-2365(a), and amendments thereto, the court may impose  
13 one or more of the following sentencing alternatives. In the event that any  
14 sentencing alternative chosen constitutes an order authorizing or requiring  
15 removal of the juvenile from the juvenile's home and such findings either  
16 have not previously been made or the findings are not or may no longer be  
17 current, the court shall make determinations as required by K.S.A. 2014  
18 Supp. 38-2334 and 38-2335, and amendments thereto.

19 (1) Place the juvenile on probation through court services or  
20 community corrections for a fixed period, subject to terms and conditions  
21 the court deems appropriate consistent with juvenile justice programs in  
22 the community.

23 (2) Order the juvenile to participate in a community based program  
24 available in such judicial district subject to the terms and conditions the  
25 court deems appropriate. This alternative shall not be ordered with the  
26 alternative in paragraph (12) and when ordered with the alternative in  
27 paragraph (10) shall constitute a recommendation. Requirements  
28 pertaining to child support may apply if custody is vested with other than a  
29 parent.

30 (3) Place the juvenile in the custody of a parent or other suitable  
31 person, subject to terms and conditions consistent with juvenile justice  
32 programs in the community. This alternative shall not be ordered with the  
33 alternative in paragraph (10) or (12). Requirements pertaining to child  
34 support may apply if custody is vested with other than a parent.

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

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

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

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

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

12 (9) Place the juvenile under a house arrest program administered by  
13 the court pursuant to K.S.A. 2014 Supp. 21-6609, and amendments  
14 thereto.

15 (10) Place the juvenile in the custody of the ~~commissioner~~ **secretary**  
16 **of corrections** as provided in K.S.A. 2014 Supp. 38-2365, and  
17 amendments thereto. This alternative shall not be ordered with the  
18 alternative in paragraph (3) or (12). Except for a mandatory drug and  
19 alcohol evaluation, when this alternative is ordered with alternatives in  
20 paragraphs (2), (4) and (9), such orders shall constitute a recommendation  
21 by the court. Requirements pertaining to child support shall apply under  
22 this alternative.

23 (11) Commit the juvenile to a sanctions house for a period no longer  
24 than 28 days subject to the provisions of subsection ~~(f)~~(g).

25 (12) Commit the juvenile directly to the custody of the ~~commissioner~~  
26 **secretary of corrections** for a period of confinement in a juvenile  
27 correctional facility and a period of aftercare pursuant to K.S.A. 2014  
28 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2014  
29 Supp. 38-2365, and amendments thereto, shall not apply to juveniles  
30 committed pursuant to this provision, provided however, that 21 days prior  
31 to the juvenile's release from a juvenile correctional facility, the  
32 ~~commissioner~~ **secretary of corrections** or designee shall notify the court of  
33 the juvenile's anticipated release date. The court shall set and hold a  
34 permanency hearing pursuant to K.S.A. 2014 Supp. 38-2365, and  
35 amendments thereto, within seven days after the juvenile's release. This  
36 alternative may be ordered with the alternative in paragraph (7).  
37 Requirements pertaining to child support shall apply under this alternative.

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

41 (1) The court may order the juvenile offender to participate in  
42 counseling or mediation sessions or a program of education, including  
43 placement in an alternative educational program approved by a local

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

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

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

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

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

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

1 court in which the juvenile offender is convicted of violating such  
2 conditions.

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

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

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

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

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

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

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

37 (f) *Before the court places the juvenile in a detention center as part of*  
38 *probation or community corrections pursuant to subsection (a)(1), places*  
39 *the juvenile under a house arrest program pursuant to subsection (a)(9),*  
40 *places the juvenile in the custody of the ~~commissioner~~ **secretary of***  
41 ***corrections** pursuant to subsection (a)(10), commits the juvenile to a*  
42 *sanctions house pursuant to subsection (a)(11) or commits the juvenile*  
43 *directly to the custody of the ~~commissioner~~ **secretary of corrections** for a*

1 *period of confinement in a juvenile correctional facility pursuant to*  
2 *subsection (a)(12), the court shall administer a risk assessment tool, as*  
3 *described in K.S.A. 2014 Supp. 38-2360, and amendments thereto, or*  
4 **review a risk assessment tool that was administered within the past six**  
5 **months to the juvenile.**

6 ~~(f)~~ (g) If the court commits the juvenile to a sanctions house pursuant  
7 to subsection (a)(11), the following provisions shall apply:

8 (1) The court may order commitment for up to 28 days for the same  
9 offense or violation of sentencing condition. The court shall review the  
10 commitment every seven days and, may shorten the initial commitment or,  
11 if the initial term is less than 28 days, may extend the commitment;

12 (2) if, in the sentencing order, the court orders a sanctions house  
13 placement for a verifiable probation violation and such probation violation  
14 occurs, the juvenile may immediately be taken to a sanctions house and  
15 detained for no more than 48 hours, excluding Saturdays, Sundays,  
16 holidays, and days on which the office of the clerk of the court is not  
17 accessible, prior to court review of the placement. The court and all parties  
18 shall be notified of the sanctions house placement; and

19 (3) a juvenile over 18 years of age and less than 23 years of age at  
20 sentencing shall be committed to a county jail, in lieu of a sanctions house,  
21 under the same time restrictions imposed by paragraph (1), but shall not be  
22 committed to or confined in a juvenile detention facility.

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

25 ~~(h)~~ (i) In addition to the requirements of K.S.A. 2014 Supp. 38-2373,  
26 and amendments thereto, if a person is under 18 years of age and  
27 convicted of a felony or adjudicated as a juvenile offender for an offense if  
28 committed by an adult would constitute the commission of a felony, the  
29 court shall forward a signed copy of the journal entry to the commissioner  
30 **secretary of corrections** within 30 days of final disposition.

31 ~~(i)~~ (j) Except as further provided, if a juvenile has been adjudged to  
32 be a juvenile offender for an offense that if committed by an adult would  
33 constitute the commission of: (1) Aggravated human trafficking, as defined  
34 in ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5426(b), and amendments  
35 thereto, if the victim is less than 14 years of age; (2) rape, as defined in  
36 ~~subsection (a)(3) of~~ K.S.A. 2014 Supp. 21-5503(a)(3), and amendments  
37 thereto; (3) aggravated indecent liberties with a child, as defined in  
38 ~~subsection (b)(3) of~~ K.S.A. 2014 Supp. 21-5506(b)(3), and amendments  
39 thereto; (4) aggravated criminal sodomy, as defined in ~~subsection (b)(1) or~~  
40 ~~(b)(2) of~~ K.S.A. 2014 Supp. 21-5504(b)(1) or (b)(2), and amendments  
41 thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A.  
42 2014 Supp. 21-6422, and amendments thereto, if the victim is less than 14  
43 years of age; (6) sexual exploitation of a child, as defined in ~~subsection (a)~~

1 ~~(1) or (a)(4)~~ of K.S.A. 2014 Supp. 21-5510(a)(1) or (a)(4), and  
2 amendments thereto, if the victim is less than 14 years of age; or (7) an  
3 attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2014  
4 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an  
5 offense defined in ~~parts~~ *paragraphs* (1) through (6); the court shall issue  
6 an order prohibiting the juvenile from attending the attendance center that  
7 the victim of the offense attends. If only one attendance center exists, for  
8 which the victim and juvenile are eligible to attend, in the school district  
9 where the victim and the juvenile reside, the court shall hear testimony and  
10 take evidence from the victim, the juvenile, their families and a  
11 representative of the school district as to why the juvenile should or should  
12 not be allowed to remain at the attendance center attended by the victim.  
13 After such hearing, the court may issue an order prohibiting the juvenile  
14 from attending the attendance center that the victim of the offense attends.

15 ~~(j)~~ (k) The sentencing hearing shall be open to the public as provided  
16 in K.S.A. 2014 Supp. 38-2353, and amendments thereto.

17 Sec. 2. K.S.A. 2014 Supp. 38-2369 is hereby amended to read as  
18 follows: 38-2369. (a) For the purpose of committing juvenile offenders to  
19 a juvenile correctional facility, the following placements shall be applied  
20 by the judge in felony or misdemeanor cases. If used, the court shall  
21 establish a specific term of commitment as specified in this subsection,  
22 unless the judge conducts a departure hearing and finds substantial and  
23 compelling reasons to impose a departure sentence as provided in K.S.A.  
24 2014 Supp. 38-2371, and amendments thereto. *Before a juvenile offender*  
25 *is committed to a juvenile correctional facility pursuant to this section, the*  
26 *court shall administer a risk assessment tool, as described in K.S.A. 2014*  
27 *Supp. 38-2360, and amendments thereto, or review a risk assessment tool*  
28 **that was administered within the past six months to the juvenile.**

29 (1) *Violent Offenders.* (A) The violent offender I is defined as an  
30 offender adjudicated as a juvenile offender for an offense which, if  
31 committed by an adult, would constitute an off-grid felony. Offenders in  
32 this category may be committed to a juvenile correctional facility for a  
33 minimum term of 60 months and up to a maximum term of the offender  
34 reaching the age of 22 years, six months. The aftercare term for this  
35 offender is set at a minimum term of six months and up to a maximum  
36 term of the offender reaching the age of 23 years.

37 (B) The violent offender II is defined as an offender adjudicated as a  
38 juvenile offender for an offense which, if committed by an adult, would  
39 constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this  
40 category may be committed to a juvenile correctional facility for a  
41 minimum term of 24 months and up to a maximum term of the offender  
42 reaching the age 22 years, six months. The aftercare term for this offender  
43 is set at a minimum term of six months and up to a maximum term of the

1 offender reaching the age of 23 years.

2 (2) *Serious Offenders.* (A) The serious offender I is defined as an  
3 offender adjudicated as a juvenile offender for an offense:

4 (i) Which, if committed by an adult, would constitute a nondrug  
5 severity level 4, 5 or 6 person felony;

6 (ii) committed prior to July 1, 2012, which, if committed by an adult  
7 prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony;  
8 or

9 (iii) committed on or after July 1, 2012, which, if committed by an  
10 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or  
11 3 felony.

12 Offenders in this category may be committed to a juvenile correctional  
13 facility for a minimum term of 18 months and up to a maximum term of 36  
14 months. The aftercare term for this offender is set at a minimum term of  
15 six months and up to a maximum term of 24 months.

16 (B) The serious offender II is defined as an offender adjudicated as a  
17 juvenile offender for an offense which, if committed by an adult, would  
18 constitute a nondrug severity level 7, person felony with one prior felony  
19 adjudication. Offenders in this category may be committed to a juvenile  
20 correctional facility for a minimum term of nine months and up to a  
21 maximum term of 18 months. The aftercare term for this offender is set at  
22 a minimum term of six months and up to a maximum term of 24 months.

23 (C) The serious offender III is defined as an offender adjudicated as a  
24 juvenile offender for an offense which, if committed by an adult, would  
25 constitute a nondrug severity level 8, 9 or 10 person felony with one prior  
26 felony adjudication. Offenders in this category may only be committed to a  
27 juvenile correctional facility if the judge conducts a departure hearing and  
28 finds substantial and compelling reasons to impose a departure sentence as  
29 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a  
30 departure sentence is imposed, offenders in this category may be  
31 committed to a juvenile correctional facility for a minimum term of nine  
32 months and up to a maximum term of 18 months. The aftercare term for  
33 this offender is set at a minimum term of six months and up to a maximum  
34 term of 24 months.

35 (3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is  
36 defined as an offender adjudicated as a juvenile offender for an offense:

37 (i) Which, if committed by an adult, would constitute one present  
38 nonperson felony adjudication and two prior felony adjudications;

39 (ii) committed prior to July 1, 2012, which, if committed by an adult  
40 prior to July 1, 2012, would constitute one present drug severity level 3  
41 felony adjudication and two prior felony adjudications; or

42 (iii) committed on or after July 1, 2012, which, if committed by an  
43 adult on or after July 1, 2012, would constitute one present drug severity



1 level 4 felony adjudication and two prior felony adjudications.

2 Offenders in this category may only be committed to a juvenile  
3 correctional facility if the judge conducts a departure hearing and finds  
4 substantial and compelling reasons to impose a departure sentence as  
5 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a  
6 departure sentence is imposed, offenders in this category may be  
7 committed to a juvenile correctional facility for a minimum term of six  
8 months and up to a maximum term of 18 months. The aftercare term for  
9 this offender is set at a minimum term of six months and up to a maximum  
10 term of 12 months.

11 (B) The chronic offender II, escalating felon is defined as an offender  
12 adjudicated as a juvenile offender for an offense:

13 (i) Which, if committed by an adult, would constitute one present  
14 felony adjudication and either two prior misdemeanor adjudications or one  
15 prior person or nonperson felony adjudication;

16 (ii) which, if committed by an adult, would constitute one present  
17 felony adjudication and two prior drug severity level 4 or 5 adjudications;

18 (iii) committed prior to July 1, 2012, which, if committed by an adult  
19 prior to July 1, 2012, would constitute one present drug severity level 3  
20 felony adjudication and either two prior misdemeanor adjudications or one  
21 prior person or nonperson felony adjudication;

22 (iv) committed prior to July 1, 2012, which, if committed by an adult  
23 prior to July 1, 2012, would constitute one present drug severity level 3  
24 felony adjudication and two prior drug severity level 4 or 5 adjudications;

25 (v) committed on or after July 1, 2012, which, if committed by an  
26 adult on or after July 1, 2012, would constitute one present drug severity  
27 level 4 felony adjudication and either two prior misdemeanor adjudications  
28 or one prior person or nonperson felony adjudication; or

29 (vi) committed on or after July 1, 2012, which, if committed by an  
30 adult on or after July 1, 2012, would constitute one present drug severity  
31 level 4 felony adjudication and two prior drug severity level 4 or 5  
32 adjudications.

33 Offenders in this category may only be committed to a juvenile  
34 correctional facility if the judge conducts a departure hearing and finds  
35 substantial and compelling reasons to impose a departure sentence as  
36 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a  
37 departure sentence is imposed, offenders in this category may be  
38 committed to a juvenile correctional facility for a minimum term of six  
39 months and up to a maximum term of 18 months. The aftercare term for  
40 this offender is set at a minimum term of six months and up to a maximum  
41 term of 12 months.

42 (C) The chronic offender III, escalating misdemeanant is defined as  
43 an offender adjudicated as a juvenile offender for an offense:

1 (i) Which, if committed by an adult, would constitute one present  
2 misdemeanor adjudication and either two prior misdemeanor adjudications  
3 or one prior person or nonperson felony adjudication and two placement  
4 failures;

5 (ii) which, if committed by an adult, would constitute one present  
6 misdemeanor adjudication and two prior drug severity level 4 or 5 felony  
7 adjudications and two placement failures;

8 (iii) Which, if committed by an adult, would constitute one present  
9 drug severity level 4 felony adjudication and either two prior misdemeanor  
10 adjudications or one prior person or nonperson felony adjudication and  
11 two placement failures;

12 (iv) which, if committed by an adult, would constitute one present  
13 drug severity level 4 felony adjudication and two prior drug severity level  
14 4 or 5 felony adjudications and two placement failures;

15 (v) committed on or after July 1, 2012, which, if committed by an  
16 adult on or after July 1, 2012, would constitute one present drug severity  
17 level 5 felony adjudication and either two prior misdemeanor adjudications  
18 or one prior person or nonperson felony adjudication and two placement  
19 failures; or

20 (vi) committed on or after July 1, 2012, which, if committed by an  
21 adult on or after July 1, 2012, would constitute one present drug severity  
22 level 5 felony adjudication and two prior drug severity level 4 or 5  
23 adjudications and two placement failures.

24 Offenders in this category may only be committed to a juvenile  
25 correctional facility if the judge conducts a departure hearing and finds  
26 substantial and compelling reasons to impose a departure sentence as  
27 provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a  
28 departure sentence is imposed, offenders in this category may be  
29 committed to a juvenile correctional facility for a minimum term of three  
30 months and up to a maximum term of six months. The aftercare term for  
31 this offender is set at a minimum term of three months and up to a  
32 maximum term of six months.

33 (4) *Conditional Release Violators*. Upon finding the juvenile violated  
34 a requirement or requirements of conditional release, the court may:

35 (A) Subject to the limitations in ~~subsection (a)~~ of K.S.A. 2014 Supp.  
36 38-2366(a), and amendments thereto, commit the offender directly to a  
37 juvenile correctional facility for a minimum term of three months and up  
38 to a maximum term of six months. The aftercare term for this offender  
39 shall be a minimum of two months and a maximum of six months, or the  
40 length of the aftercare originally ordered, whichever is longer.

41 (B) Enter one or more of the following orders:

42 (i) Recommend additional conditions be added to those of the  
43 existing conditional release.

1 (ii) Order the offender to serve a period of sanctions pursuant to  
2 ~~subsection (f) of K.S.A. 2014 Supp. 38-2361(g)~~, and amendments thereto.

3 (iii) Revoke or restrict the juvenile's driving privileges as described in  
4 ~~subsection (e) of K.S.A. 2014 Supp. 38-2361(c)~~, and amendments thereto.

5 (C) Discharge the offender from the custody of the ~~commissioner~~  
6 **secretary of corrections**, release the ~~commissioner~~ **secretary of**  
7 **corrections** from further responsibilities in the case and enter any other  
8 appropriate orders.

9 (b) As used in this section:

10 (1) "Placement failure" means a juvenile offender in the custody of  
11 the ~~juvenile justice authority~~ **secretary of corrections** has significantly  
12 failed the terms of conditional release or has been placed out-of-home in a  
13 community placement accredited by the ~~commissioner~~ **secretary of**  
14 **corrections** and has significantly violated the terms of that placement or  
15 violated the terms of probation.

16 (2) "Adjudication" includes out-of-state juvenile adjudications. An  
17 out-of-state offense, which if committed by an adult would constitute the  
18 commission of a felony or misdemeanor, shall be classified as either a  
19 felony or a misdemeanor according to the adjudicating jurisdiction. If an  
20 offense which if committed by an adult would constitute the commission  
21 of a felony is a felony in another state, it will be deemed a felony in  
22 Kansas. The state of Kansas shall classify the offense, which if committed  
23 by an adult would constitute the commission of a felony or misdemeanor,  
24 as person or nonperson. In designating such offense as person or  
25 nonperson, reference to comparable offenses shall be made. If the state of  
26 Kansas does not have a comparable offense, the out-of-state adjudication  
27 shall be classified as a nonperson offense.

28 (c) All appropriate community placement options shall have been  
29 exhausted before a chronic offender III, escalating misdemeanant shall be  
30 placed in a juvenile correctional facility. A court finding shall be made  
31 acknowledging that appropriate community placement options have been  
32 pursued and no such option is appropriate.

33 (d) The ~~commissioner~~ **secretary of corrections** shall work with the  
34 community to provide on-going support and incentives for the  
35 development of additional community placements to ensure that the  
36 chronic offender III, escalating misdemeanant sentencing category is not  
37 frequently utilized.

38 (e) Any juvenile offender committed to a juvenile correctional facility  
39 who is adjudicated for an offense committed while such juvenile was  
40 committed to a juvenile correctional facility, may be adjudicated to serve a  
41 consecutive term of commitment in a juvenile correctional facility.

42 Sec. 3. K.S.A. 2014 Supp. 38-2361 and 38-2369 are hereby repealed.

43 Sec. 4. This act shall take effect and be in force from and after its

- 1 publication in the statute book.