

HOUSE BILL No. 2264

By Committee on Corrections and Juvenile Justice

2-2

Proposed Amendment to HB2264
Committee on Corrections & Juvenile Justice
February 10, 2016
Prepared by: Jenna Moyer
Office of Revisor of Statutes

1 AN ACT concerning children and minors; relating to the revised Kansas
2 juvenile justice code; place of certain juvenile offenders; amending
3 K.S.A. 2015 Supp. 38-2361, as amended by section 42 of chapter 46 of
4 the 2016 Session Laws of Kansas and 38-2369, as amended by section
5 46 of chapter 46 of the 2016 Session Laws of Kansas and repealing the
6 existing sections.
7

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

9 Section 1. K.S.A. 2015 Supp. 38-2361, as amended by section 42 of
10 chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read
11 as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant
12 to K.S.A.—2015 2016 Supp. 38-2356, and amendments thereto,
13 modification of sentence pursuant to K.S.A.—2015 2016 Supp. 38-2367,
14 and amendments thereto, or violation of a condition of sentence pursuant
15 to K.S.A.—2015 2016 Supp. 38-2368, and amendments thereto the court
16 may impose one or more of the following sentencing alternatives for a
17 fixed period pursuant to K.S.A.—2015 2016 Supp. 38-2369 and ~~section 1~~
18 ~~38-2391~~, and amendments thereto.

19 (1) Place the juvenile on probation for a fixed period pursuant to
20 ~~section 1~~ K.S.A. 2016 Supp. 38-2391, and amendments thereto, subject to
21 terms and conditions the court deems appropriate consistent with juvenile
22 justice programs in the community. Any juvenile placed on probation shall
23 be supervised according to the juvenile's risk and needs as determined by a
24 risk and needs assessment. Placement of juvenile offenders to community
25 corrections for probation supervision shall be limited to offenders
26 adjudicated for an offense that are determined to be moderate-risk, high-
27 risk or very high-risk on a risk and needs assessment using the cutoff
28 scores established by the secretary pursuant to K.S.A.—2015 2016 Supp.
29 38-2360, and amendments thereto.

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

35 (3) Place the juvenile in the custody of a parent or other suitable
36 person, which is not a group home or other facility licensed pursuant to

1 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
2 thereto, subject to terms and conditions consistent with juvenile justice
3 programs in the community. This alternative shall not be ordered with the
4 alternative in paragraph (11). Requirements pertaining to child support
5 may apply if custody is vested with other than a parent.

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

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

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

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

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

17 (9) Place the juvenile under a house arrest program administered by
18 the court pursuant to K.S.A. ~~2015~~ 2016 Supp. 21-6609, and amendments
19 thereto.

20 (10) Place the juvenile in the custody of the secretary of corrections
21 as provided in K.S.A. ~~2015~~ 2016 Supp. 38-2365, and amendments thereto.
22 This alternative shall not be ordered with the alternative in paragraph (3)
23 or (12). Except for mandatory drug and alcohol evaluation, when this
24 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
25 orders shall constitute a recommendation by the court. Requirements
26 pertaining to child support shall apply under this alternative. The
27 provisions of this paragraph shall expire on January 1, 2018.

28 (11) Upon a violation of a condition of sentence, other than a
29 technical violation pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2368, and
30 amendments thereto, commit the juvenile to detention for a period no
31 longer than 30 days subject to the provisions of subsection (g).

32 (12) If the judge finds and enters into the written record that the
33 juvenile poses a significant risk of harm to another or damage to property,
34 and the juvenile is otherwise eligible for commitment pursuant to K.S.A.
35 ~~2015~~ 2016 Supp. 38-2369, and amendments thereto, commit the juvenile
36 directly to the custody of the secretary of corrections for placement in a
37 juvenile correctional facility or a youth residential facility. Placement in a
38 youth residential facility shall only be permitted as authorized in K.S.A.
39 ~~2015~~ 2016 Supp. 38-2369(e), and amendments thereto. If the court elects,
40 a period of conditional release pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-
41 2369, and amendments thereto, may also be ordered. The period of
42 conditional release shall be limited to a maximum of six months and shall
43 be subject to graduated responses. Twenty-one days prior to the juvenile's

1 release from a juvenile correctional facility, the secretary of corrections or
 2 designee shall notify the court of the juvenile's anticipated release date.
 3 This alternative may be ordered with the alternative in paragraph (7).
 4 Requirements pertaining to child support shall apply under this alternative.

Upon a finding by the trier of fact during adjudication that

5 ~~(13) When a firearm is used in the commission of an offense that~~
 6 ~~would constitute a felony, if committed by an adult, a judge may commit~~
 7 ~~the juvenile directly to the custody of the secretary of corrections for~~
 8 ~~placement in a juvenile correctional facility or a youth residential facility~~
 9 ~~for a minimum term of six months and up to a maximum term of 18~~
 10 ~~months, regardless of the risk level of such juvenile as determined by a~~
 11 ~~risk and needs assessment. If the juvenile is committed to custody of the~~
 12 ~~secretary, and the court elects, a period of conditional release pursuant to~~
 13 ~~K.S.A. 2016 Supp. 38-2369, and amendments thereto, may also be~~
 14 ~~ordered. The period of conditional release shall be limited to a maximum~~
 15 ~~of six months and shall be subject to graduated responses. Twenty-one~~
 16 ~~days prior to the juvenile's release from a juvenile correctional facility, the~~
 17 ~~secretary of corrections or designee shall notify the court of the juvenile's~~
 18 ~~anticipated release date.~~

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

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

34 (2) if the juvenile has been adjudicated to be a juvenile by reason of a
 35 violation of a statute that makes such a requirement, the court shall order
 36 and, if adjudicated for any other offense, the court may order the juvenile
 37 to submit to and complete a drug and alcohol evaluation by a community-
 38 based drug and alcohol safety action program certified pursuant to K.S.A.
 39 8-1008, and amendments thereto, and to pay a fee not to exceed the fee
 40 established by that statute for such evaluation. The court may waive the
 41 mandatory evaluation if the court finds that the juvenile completed a drug
 42 and alcohol evaluation, approved by the community-based alcohol and
 43 drug safety action program, within 12 months before sentencing. If the

1 evaluation occurred more than 12 months before sentencing, the court
2 shall order the juvenile to resubmit to and complete the evaluation and
3 program as provided herein. If the court finds that the juvenile and those
4 legally liable for the juvenile's support are indigent, the court may waive
5 the fee. In no event shall the fee be assessed against the secretary of
6 corrections or the department of corrections nor shall the fee be assessed
7 against the secretary of the department for children and families or the
8 Kansas department for children and families if the juvenile is in the
9 secretary's care, custody and control.

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

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

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

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

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

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

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

1 cases. Such judgment shall not be affected by the termination of the court's
2 jurisdiction over the juvenile offender.

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

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

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

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

18 (f) Before the court sentences a juvenile offender pursuant to
19 subsection (a), the court shall administer a risk assessment tool, as
20 described in K.S.A.-~~2015~~ 2016 Supp. 38-2360, and amendments thereto,
21 or review a risk assessment tool that was administered within the past six
22 months to the juvenile and use the results of that assessment to inform
23 orders made pursuant to K.S.A.-~~2015~~ 2016 Supp. 38-2369 and ~~section 1~~
24 ~~38-2391~~, and amendments thereto.

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

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

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

34 (3) The court shall not order commitment to detention upon
35 adjudication as a juvenile offender pursuant to K.S.A.-~~2015~~ 2016 Supp.
36 38-2356, and amendments thereto, for solely technical violations of
37 probation, contempt, a violation of a valid court order, to protect from self-
38 harm or due to any state or county failure to find adequate alternatives.

39 (4) Cumulative detention use shall be limited to a maximum of 45
40 days over the course of a juvenile offender's case pursuant to ~~section 1~~
41 ~~K.S.A. 2016 Supp. 38-2391~~, and amendments thereto. The court shall
42 review any detention commitment every seven days and, may shorten the
43 initial commitment or extend the commitment. In no case, however, may

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

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

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

10 (i) In addition to the requirements of K.S.A.—~~2015~~ 2016 Supp. 38-
11 2373, and amendments thereto, if a person is under 18 years of age and
12 convicted of a felony or adjudicated as a juvenile offender for an offense if
13 committed by an adult would constitute the commission of a felony, the
14 court shall forward a signed copy of the journal entry to the secretary of
15 corrections within 30 days of final disposition.

16 (j) Except as further provided, if a juvenile has been adjudged to be a
17 juvenile offender for an offense that if committed by an adult would
18 constitute the commission of: (1) Aggravated human trafficking, as defined
19 in K.S.A.—~~2015~~ 2016 Supp. 21-5426(b), and amendments thereto, if the
20 victim is less than 14 years of age; (2) rape, as defined in K.S.A.—~~2015~~
21 2016 Supp. 21-5503(a)(3), and amendments thereto; (3) aggravated
22 indecent liberties with a child, as defined in K.S.A.—~~2015~~ 2016 Supp. 21-
23 5506(b)(3), and amendments thereto; (4) aggravated criminal sodomy, as
24 defined in K.S.A.—~~2015~~ 2016 Supp. 21-5504(b)(1) or (b)(2), and
25 amendments thereto; (5) commercial sexual exploitation of a child, as
26 defined in K.S.A.—~~2015~~ 2016 Supp. 21-6422, and amendments thereto, if
27 the victim is less than 14 years of age; (6) sexual exploitation of a child, as
28 defined in K.S.A.—~~2015~~ 2016 Supp. 21-5510(a)(1) or (a)(4), and
29 amendments thereto, if the victim is less than 14 years of age; or (7) an
30 attempt, conspiracy or criminal solicitation, as defined in K.S.A.—~~2015~~
31 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an
32 offense defined in paragraphs (1) through (6); the court shall issue an order
33 prohibiting the juvenile from attending the attendance center that the
34 victim of the offense attends. If only one attendance center exists, for
35 which the victim and juvenile are eligible to attend, in the school district
36 where the victim and the juvenile reside, the court shall hear testimony and
37 take evidence from the victim, the juvenile, their families and a
38 representative of the school district as to why the juvenile should or should
39 not be allowed to remain at the attendance center attended by the victim.
40 After such hearing, the court may issue an order prohibiting the juvenile
41 from attending the attendance center that the victim of the offense attends.

42 (k) The court may order a short-term alternative placement of a
43 juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic

- 1 foster home or community integration program if:
- 2 (1) Such juvenile has been adjudicated to be a juvenile offender for an
3 offense that if committed by an adult would constitute the commission of:
- 4 (A) Aggravated human trafficking, as defined in K.S.A. ~~2015~~ 2016
5 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14
6 years of age;
- 7 (B) rape, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5503, and
8 amendments thereto;
- 9 (C) commercial sexual exploitation of a child, as defined in K.S.A.
10 ~~2015~~ 2016 Supp. 21-6422, and amendments thereto, if the victim is less
11 than 14 years of age;
- 12 (D) sexual exploitation of a child, as defined in K.S.A. ~~2015~~ 2016
13 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is
14 less than 14 years of age;
- 15 (E) aggravated indecent liberties with a child, as defined in K.S.A.
16 ~~2015~~ 2016 Supp. 21-5506, and amendments thereto, if the victim is less
17 than 14 years of age; or
- 18 (F) an attempt, conspiracy or criminal solicitation, as defined in
19 K.S.A. ~~2015~~ 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments
20 thereto, of an offense defined in paragraphs (1) through (4); and
- 21 (2) (A) the victim resides in the same home as the juvenile offender;
- 22 (B) a community supervision officer in consultation with the
23 department for children and families determines that an adequate safety
24 plan, which shall include the physical and psychological well-being of the
25 victim, cannot be developed to keep the juvenile in the same home; and
- 26 (C) there are no relevant child in need of care issues that would
27 permit a case to be filed under the Kansas code for care of children.
- 28 The presumptive term of commitment shall not extend beyond three
29 months and the overall case length limit but may be modified pursuant to
30 K.S.A. ~~2015~~ 2016 Supp. 38-2367 and ~~section 8~~ K.S.A. 2016 Supp. 38-
31 2397, and amendments thereto. If a child is placed outside the child's home
32 at the dispositional hearing pursuant to this subsection and no reintegration
33 plan is made a part of the record of the hearing, a written reintegration plan
34 shall be prepared pursuant to ~~section 8~~ K.S.A. 2016 Supp. 38-2397, and
35 amendments thereto, and submitted to the court within 15 days of the
36 initial order of the court.
- 37 (l) The sentencing hearing shall be open to the public as provided in
38 K.S.A. ~~2015~~ 2016 Supp. 38-2353, and amendments thereto.
- 39 (m) The overall case length limit shall be calculated by the court and
40 entered into the written record when one or more of the sentencing options
41 under this section are imposed. The period fixed by the court pursuant to
42 subsection (a) shall not extend beyond the overall case length limit.
- 43 Sec. 2. K.S.A. 2015 Supp. 38-2369, as amended by section 46 of

1 chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read
2 as follows: 38-2369. (a) Except as provided in subsection (e) *and K.S.A.*
3 *2016 Supp. 38-2361(a)(13), and amendments thereto*, for the purpose of
4 committing juvenile offenders to a juvenile correctional facility, upon a
5 finding by the judge entered into the written order that the juvenile poses a
6 significant risk of harm to another or damage to property, the following
7 placements shall be applied by the judge in the cases specified in this
8 subsection. If used, the court shall establish a specific term of commitment
9 as specified in this subsection. The term of commitment established by the
10 court shall not exceed the overall case length limit. Before a juvenile
11 offender is committed to a juvenile correctional facility pursuant to this
12 section, the court shall administer a risk assessment tool, as described in
13 K.S.A.-~~2015~~ *2016 Supp. 38-2360*, and amendments thereto, or review a
14 risk assessment tool that was administered within the past six months to
15 the juvenile.

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

24 (B) The violent offender II is defined as an offender adjudicated as a
25 juvenile offender for an offense which, if committed by an adult, would
26 constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this
27 category may be committed to a juvenile correctional facility for a
28 minimum term of 24 months and up to a maximum term of the offender
29 reaching the age of 22 years, six months. The aftercare term for this
30 offender is set at a minimum term of six months and up to a maximum
31 term of the offender reaching the age of 23 years.

32 (2) *Serious Offenders.* (A) The serious offender I is defined as an
33 offender adjudicated as a juvenile offender for an offense which, if
34 committed by an adult, would constitute a nondrug severity level 4, person
35 felony.

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

40 (B) The serious offender II is defined as an offender adjudicated as a
41 juvenile offender for an offense:

42 (i) Committed prior to July 1, 2012, which, if committed by an adult
43 prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony;

1 or

2 (ii) committed on or after July 1, 2012, which, if committed by an
3 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or
4 3 felony or a nondrug severity level 5 or 6 person felony.

5 Offenders in this category may be committed to a juvenile correctional
6 facility for a minimum term of nine months and up to a maximum term of
7 18 months.

8 ~~(C) The serious offender III is defined as an offender adjudicated as a~~
9 ~~juvenile offender for an offense which, if committed by an adult, would~~
10 ~~constitute a nondrug severity level 7, person felony with one prior felony~~
11 ~~adjudication. Offenders in this category may only be committed to a~~
12 ~~juvenile correctional facility if they are assessed as high-risk on a risk and~~
13 ~~needs assessment. Offenders in this category may be committed to a~~
14 ~~juvenile correctional facility for a minimum term of six months and up to a~~
15 ~~maximum term of 12 months.~~

16 ~~(D) The serious offender IV III is defined as an offender adjudicated~~
17 ~~as a juvenile offender for an offense which, if committed by an adult,~~
18 ~~would constitute a nondrug severity level 7, 8, 9 or 10 person felony with~~
19 ~~one prior felony adjudication. Offenders in this category may only be~~
20 ~~committed to a juvenile correctional facility if such offenders are assessed~~
21 ~~as high-risk on a risk and needs assessment. Offenders in this category~~
22 ~~may be committed to a juvenile correctional facility for a minimum term~~
23 ~~of six months and up to a maximum term of 12 months.~~

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

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

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

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

34 Offenders in this category may only be committed to a juvenile
35 correctional facility if such offenders are assessed as high-risk on a risk
36 and needs assessment. Offenders in this category may be committed to a
37 juvenile correctional facility for a minimum term of six months and up to a
38 maximum term of 12 months.

39 (b) *Conditional Release.* If the court elects, a period of conditional
40 release may also be ordered pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2361,
41 and amendments thereto. The period of conditional release shall be limited
42 to a maximum of six months and shall be subject to graduated responses.
43 The presumption upon release shall be a return to the juvenile's home,

1 unless the case plan developed pursuant to K.S.A.-~~2015~~ 2016 Supp. 38-
2 2373, and amendments thereto, recommends a different reentry plan.

3 (1) Upon finding the juvenile violated a requirement or requirements
4 of conditional release, the court may enter one or more of the following
5 orders:

6 (A) Recommend additional conditions be added to those of the
7 existing conditional release.

8 (B) Order the offender to serve a period of detention pursuant to
9 K.S.A.-~~2015~~ 2016 Supp. 38-2361(g), and amendments thereto.

10 (C) Revoke or restrict the juvenile's driving privileges as described in
11 K.S.A.-~~2015~~ 2016 Supp. 38-2361(c), and amendments thereto.

12 (2) Discharge the offender from the custody of the secretary of
13 corrections, release the secretary of corrections from further
14 responsibilities in the case and enter any other appropriate orders.

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

27 (d) The secretary of corrections shall work with the community to
28 provide on-going support and incentives for the development of additional
29 evidence-based community practices and programs to ensure that the
30 juvenile correctional facility is not frequently utilized.

31 (e) There shall be a rebuttable presumption that all offenders in the
32 chronic offender category and offenders at least 10 years of age but less
33 than 14 years of age in the serious offender II, III or IV category, shall be
34 placed in the custody of the secretary for placement in a youth residential
35 facility in lieu of placement in the juvenile correctional facility. This
36 presumption may be rebutted by a finding on the record that the juvenile
37 offender poses a significant risk of physical harm to another.

38 Sec. 3. K.S.A. 2015 Supp. 38-2361, as amended by section 42 of
39 chapter 46 of the 2016 Session Laws of Kansas and 38-2369, as amended
40 by section 46 of chapter 46 of the 2016 Session Laws of Kansas are hereby
41 repealed.

42 Sec. 4. This act shall take effect and be in force from and after its
43 publication in the statute book.