

**38-2392. Community-based graduated responses for technical violations of probation, violations of conditional release and violations of a condition of sentence.** (a) The department of corrections shall, in consultation with the supreme court, adopt rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical violations of probation, violations of conditional release and violations of a condition of sentence by juveniles. Such graduated responses shall be utilized by community supervision officers to provide a continuum of community-based responses. These responses shall include sanctions that are swift and certain to address violations based on the severity of the violation as well as incentives that encourage positive behaviors. Such responses shall take into account the juvenile's risks and needs.

(b) When a juvenile is placed on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, community supervision officers shall utilize graduated responses, targeted to the juvenile's risks and needs based on the results of a risk and needs assessment to address technical violations. A technical violation shall only be considered by the court for revocation if: (1) It is a third or subsequent technical violation; (2) prior failed responses are documented in the juvenile's case plan; and (3) the community supervision officer has determined and documented that graduated responses to the violation will not suffice. Unless a juvenile poses a significant risk of physical harm to another or damage to property, community supervision officers shall issue a summons rather than request a warrant on a third or subsequent technical violation subject to review by the court.

(c) When a juvenile is placed on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, the community supervision officer responsible for oversight of the juvenile shall develop a case plan in consultation with the juvenile and the juvenile's family. The department for children and families and local board of education may participate in the development of the case plan when appropriate.

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

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

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

**Abandoning from supervision shall not be considered a technical violation of probation and, after reasonable efforts to locate a juvenile that has absconded are unsuccessful, the court may issue a warrant for the juvenile pursuant to K.S.A. 2016 Supp. 38-2342, and amendments thereto.**

Sec. 36. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2342 is hereby amended to read as follows: 38-2342. The court may issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe: (a) That an offense was committed and it was committed by the juvenile; (b) the juvenile violated probation, conditional release, or conditions of release from detention for a third or subsequent time and the juvenile poses a significant risk of physical harm to another or damage to property; or (c) the juvenile has escaped from a facility. The warrant shall designate where or to whom the juvenile is to be taken pursuant to K.S.A. 2015 Supp. 38-2330(d)(1), and amendments thereto, if the court is not open for the regular conduct of business. The warrant shall describe the offense or violation charged in the complaint or the applicable circumstances of the juvenile's absconding or escaping.

; or (d) the juvenile has absconded from supervision

**38-2330. Juvenile taken into custody, when; procedure; release; detention in jail.** (a) A law enforcement officer may take a juvenile into custody when:

- (1) Any offense has been or is being committed in the officer's view;
- (2) the officer has a warrant commanding that the juvenile be taken into custody;
- (3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein;
- (4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:
  - (A) A felony; or
  - (B) a misdemeanor and: (i) The juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody; or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody;
- (5) the officer has probable cause to believe that the juvenile has violated an order for electronic monitoring as a term of probation; or
- (6) the officer receives a written statement pursuant to subsection (c).

(b) A court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may take a juvenile into custody when: (1) There is a warrant commanding that the juvenile be taken into custody; or (2) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein.

(c) Any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may request a warrant by giving the court a written statement setting forth that the juvenile, in the judgment of the court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, has violated the condition of the juvenile's conditional release from detention or probation, for the third or subsequent time and the juvenile poses a significant risk of physical harm to another or damage to property.

(d) (1) A juvenile taken into custody by a law enforcement officer or other person authorized pursuant to subsection (b) shall be brought without unnecessary delay to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child or would pose a risk to public safety or property.

(2) If the juvenile cannot be delivered to the juvenile's parent or custodian, the officer may:

- (A) Issue a notice to appear pursuant to subsection (g); or
- (B) contact or deliver the juvenile to an intake and assessment worker for completion of the intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto.

(3) It shall be the duty of the officer to furnish the county or district attorney and the juvenile intake and assessment worker if the officer has delivered the juvenile to the worker or issued a notice to appear consistent with subsection (g), with all of the information in the officer's possession pertaining to the juvenile, the juvenile's parent or other persons interested in or likely to be interested in the juvenile and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.

(e) In the absence of a court order to the contrary, the court or officials designated by the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall direct the release prior to the time specified by K.S.A. 2016 Supp. 38-2343(a), and amendments thereto. In addition, pursuant to K.S.A. 75-7023 and K.S.A. 2016 Supp. 38-2346, and amendments thereto, a juvenile intake and assessment worker shall direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process.

(f) Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. If such person is eligible for detention, and all suitable alternatives to detention have been exhausted, the person shall be detained in jail. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and amendments thereto, relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.

(g) (1) Whenever a law enforcement officer detains any juvenile and such juvenile is not immediately taken to juvenile intake and assessment services, the officer may serve upon such juvenile a written notice to appear. Such notice to appear shall contain the name and address of the juvenile detained, the crime charged and the location and phone number of the juvenile intake and assessment services office where the juvenile will need to appear with a parent or guardian.

(2) The juvenile intake and assessment services office specified in such notice to appear must be contacted by the

(1)

; or  
(2) absconded  
from supervision

juvenile or a parent or guardian no more than 48 hours after such notice is given, excluding weekends and holidays.

(3) The juvenile detained, in order to secure release as provided in this section, must give a written promise to call within the time specified by signing the written notice prepared by the officer. The original notice shall be retained by the officer and a copy shall be delivered to the juvenile detained and that juvenile's parent or guardian if such juvenile is under 18 years of age. The officer shall then release the juvenile.

(4) The law enforcement officer shall cause to be filed, without unnecessary delay, a complaint with juvenile intake and assessment services in which a juvenile released pursuant to paragraph (3) is given notice to appear, charging the crime stated in such notice. A copy shall also be provided to the district or county attorney. If the juvenile released fails to contact juvenile intake and assessment services as required in the notice to appear, juvenile intake and assessment services shall notify the district or county attorney.

(5) The notice to appear served pursuant to paragraph (1) and the complaint filed pursuant to paragraph (4) may be provided to the juvenile in a single citation.

Sec. 45. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2368 is hereby amended to read as follows: 38-2368. If it is alleged that a juvenile offender has violated a condition of probation or of a court-ordered placement, the county or district attorney, the current custodian of the juvenile offender, or the victim of the offense committed by the offender may file a report with the assigned community supervision officer of the juvenile offender. If, upon review by the assigned community supervision officer of the juvenile offender, it is determined that the violation is eligible under section 2, and amendments thereto, for review by the court, the assigned community supervision officer may file a report with the court describing the alleged violation. The court shall provide copies of the report to the parties to the proceeding. The court, upon the court's own motion or the motion of the secretary of corrections or any party, shall set the matter for hearing and may issue a warrant pursuant to K.S.A. 2015 Supp. 38-2342, and amendments thereto, if there is probable cause to believe that the juvenile poses a significant risk of physical harm to another or damage to property. Upon receipt of the motion, the court shall fix a time and place for hearing and provide notice to the movant and to the current custodian of the juvenile offender and to each party to the proceeding. If the court finds by a preponderance of the evidence that the juvenile offender violated a condition of probation or placement or committed a technical violation for a third or subsequent time, the court may, subject to the overall case length limit, extend or modify the terms of probation or placement or enter another sentence pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, except that a child support order which has been registered under K.S.A. 2015 Supp. 38-2321, and amendments thereto, may only be modified pursuant to K.S.A. 2015 Supp. 38-2321, and amendments thereto.

absconded from  
supervision,

Sec. 51. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2375 is hereby amended to read as follows: 38-2375. ~~alleged that a juvenile offender who has been conditionally released from a juvenile correctional facility has failed to obey the specified conditions of release for the third or subsequent time; the officer assigned to supervise compliance with the conditions of release or, upon referral from such officer, the county or district attorney may file a report with the committing court or the court of the county in which the juvenile offender resides describing the alleged violation and the juvenile's history of violations. The court shall provide copies of the report to the parties to the proceedings. The court, upon the court's own motion or the county or district attorney, shall set the matter for hearing. The movant shall provide notice of the motion and hearing to each party to the proceeding and the current custodian and placement of the juvenile offender. If the court finds that a condition of release has been violated, the court may modify or impose additional conditions of release that the court considers appropriate pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto.~~

or has absconded  
from supervision

**38-2391. Overall case length limits.** (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2016 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2016 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2016 Supp. 38-2368, and amendments thereto, the court may impose one or more of the sentencing alternatives under K.S.A. 2016 Supp. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 2016 Supp. 38-2369, and amendments thereto. The period of time ordered by the court shall not exceed the overall case length limit.

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

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

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

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

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

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

(e) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

(f) Upon expiration of the overall case length limit as defined in subsection (b), the court's jurisdiction terminates and shall not be extended.

(g) (1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, the court shall establish a specific term of probation as specified in this subsection based on the most serious adjudicated count in combination with the results of a risk and needs assessment, as follows, except that the term of probation shall not exceed the overall case length limit:

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

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

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

(2) The court may extend the term of probation if a juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment. The court may also extend the term of probation for good cause shown for one month for low-risk offenders, three months for moderate-risk offenders and six months for high-risk offenders. Prior to extension of the initial probationary term, the court shall find and enter into the written record the criteria permitting extension of probation. Extensions of probation shall only be granted incrementally and shall not exceed the overall case length limit. When the court extends the term of probation for a juvenile offender, the court services officer or community correctional services officer responsible for monitoring such juvenile offender shall record the reason given for extending probation. Court services officers shall report such records to the office of judicial administration, and community correctional services officers shall report such records to the department of corrections. The office of judicial administration and the department of corrections shall report such recorded data to the Kansas juvenile justice oversight committee on a quarterly basis.

(3) The probation term limits do not apply to those offenders adjudicated for an off-grid crime, rape as defined in K.S.A. 2016 Supp. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 2016 Supp. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 2016 Supp. 21-5403, and amendments thereto. Such offenders may be placed on probation for a term consistent with the overall case length limit.

(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 2016 Supp. 38-2361 and 38-2369, and amendments thereto, the court shall establish a specific term of detention. The term of detention shall not exceed the overall case length limit or the cumulative detention limit. Cumulative detention use shall be limited to a maximum of 45 days over the course of the juvenile offender's case, except that there shall be no limit on cumulative detention for juvenile offenders adjudicated for a felony that, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(i) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

(j) This section shall take effect on and after July 1, 2017.

**(4) The probation term limits and overall case length limits provided in this section shall be tolled during any time that the offender has absconded from supervision while on probation.**

Amendment 2

(a)

**75-52,162. Confidential data exchange for juvenile justice system.** The department of corrections and the Kansas juvenile justice oversight committees shall explore methods of exchanging confidential data between all parts of the juvenile justice system. Such data exchange shall be limited based on the needs of the user accessing the data. Such method of exchanging data shall take into consideration sharing data that is necessary for continuity of treatment and correctional programs, including, but not limited to, health care requirements, mental health care needs and history, substance abuse treatment and history, recommendations for emergency placement options and any other information to assist in providing proper care to the juvenile. The department of corrections is authorized to use grant funds, allocated state funds or any other accessible funding necessary to create such data exchange system. All state and local programs involved in the care of juveniles involved in the juvenile justice system or the child in need of care system shall cooperate in the development and utilization of such system.

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

Proposed Amendment to HB 2264  
House Corrections and Juvenile Justice  
Prepared by: Natalie Scott  
Office of Revisor of Statutes



Amendment 8

Session of 2017

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

by the accused

Upon a finding by the trier of fact during adjudication that

was

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.  
 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.~~  
 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

**Amendment 11**

**38-2391. Overall case length limits.** (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2016 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2016 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2016 Supp. 38-2368, and amendments thereto, the court may impose one or more of the sentencing alternatives under K.S.A. 2016 Supp. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 2016 Supp. 38-2369, and amendments thereto. The period of time ordered by the court shall not exceed the overall case length limit.

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

- (1) Offenders adjudicated for a misdemeanor may remain under the jurisdiction of the court for up to 12 months;
- (2) low-risk and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months; and
- (3) high-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months.

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

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

(e) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

(f) Upon expiration of the overall case length limit as defined in subsection (b), the court's jurisdiction terminates and shall not be extended.

(g) (1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, the court shall establish a specific term of probation as specified in this subsection based on the most serious adjudicated count in combination with the results of a risk and needs assessment, as follows, except that the term of probation shall not exceed the overall case length limit:

- (A) Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for a term up to six months;
- (B) high-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for a term up to nine months;
- (C) high-risk offenders adjudicated for a felony may be placed on probation for a term up to 12 months.

(2) The court may extend the term of probation if a juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment. The court may also extend the term of probation for good cause shown for one month for low-risk offenders, three months for moderate-risk offenders and six months for high-risk offenders. Prior to extension of the initial probationary term, the court shall find and enter into the written record the criteria permitting extension of probation. Extensions of probation shall only be granted incrementally and shall not exceed the overall case length limit. When the court extends the term of probation for a juvenile offender, the court services officer or community correctional services officer responsible for monitoring such juvenile offender shall record the reason given for extending probation. Court services officers shall report such records to the office of judicial administration, and community correctional services officers shall report such records to the department of corrections. The office of judicial administration and the department of corrections shall report such recorded data to the Kansas juvenile justice oversight committee on a quarterly basis.

(3) The probation term limits do not apply to those offenders adjudicated for an off-grid crime, rape as defined in K.S.A. 2016 Supp. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 2016 Supp. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 2016 Supp. 21-5403, and amendments thereto. Such offenders may be placed on probation for a term consistent with the overall case length limit.

(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 2016 Supp. 38-2361 and 38-2369, and amendments thereto, the court shall establish a specific term of detention. The term of detention shall not exceed the overall case length limit or the cumulative detention limit. Cumulative detention use shall be limited to a maximum of 45 days over the course of the juvenile offender's case, except that there shall be no limit on cumulative detention for juvenile offenders adjudicated for a felony that, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(4) This section shall be part of and supplemental to the revised Kansas juvenile justice code.  
(4) This section shall take effect on and after July 1, 2017.

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

(i) The provisions of this section shall apply upon disposition or 15 days after adjudication, whichever is sooner.  
(and renumber accordingly)

## Amendment 17

Sec. 42. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2015 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2015 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2015 Supp. 38-2368, and amendments thereto the court may impose one or more of the following sentencing alternatives for a fixed period pursuant to K.S.A. 2015 Supp. 38-2369 and section 1, and amendments thereto.

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

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

(3) Place the juvenile in the custody of a parent or other suitable person, which is not a group home or other facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (1). Requirements pertaining to child support may apply if custody is vested with other than a parent.

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

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

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

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

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

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

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

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

(12) If the judge finds and enters into the written record that the juvenile poses a significant risk of harm to another or damage to property, and the juvenile is otherwise eligible for commitment pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, commit the juvenile directly to the custody of the secretary of corrections for placement in a juvenile correctional facility or a youth residential facility. Placement in a youth residential facility shall only be permitted as authorized in K.S.A. 2015 Supp. 38-2369(e), and amendments thereto. If the court elects, a period of conditional release pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, may also be ordered. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. Twenty-one days prior to the juvenile's release from a juvenile correctional facility, the secretary of corrections or designee shall notify the court of the juvenile's anticipated release date. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

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

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

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and

the victim is less than 14 years of age;

(E) aggravated indecent liberties with a child, as defined in K.S.A. 2015 Supp. 21-5506, and amendments thereto, if the victim is less than 14 years of age; or

(F) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2015 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in paragraphs (1) through (4); and

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

(B) a community supervision officer in consultation with the department for children and families determines that an adequate safety plan, which shall include the physical and psychological well-being of the victim, cannot be developed to keep the juvenile in the same home; and

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

The presumptive term of commitment shall not extend beyond ~~three months and~~ the overall case length limit but may be modified pursuant to K.S.A. 2015 Supp. 38-2367 and section 8, and amendments thereto. If a child is placed outside the child's home at the dispositional hearing pursuant to this subsection and no reintegration plan is made a part of the record of the hearing, a written reintegration plan shall be prepared pursuant to section 8, and amendments thereto, and submitted to the court within 15 days of the initial order of the court.

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(l) The sentencing hearing shall be open to the public as provided in K.S.A. 2015 Supp. 38-2353, and amendments thereto.

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