

## House Substitute for SENATE BILL No. 179

By Committee on Judiciary

3-26

1 AN ACT concerning children and minors; relating to crisis intervention;  
2 creating juvenile crisis intervention centers; amending K.S.A. 2017  
3 Supp. 38-2231, 38-2232, 38-2242, 38-2243, 38-2330 and 75-52,164  
4 and repealing the existing sections.

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

7 New Section 1. (a) A juvenile crisis intervention center is a facility  
8 that provides short-term observation, assessment, treatment and case  
9 planning, and referral for any juvenile who is experiencing a mental health  
10 crisis that causes the juvenile to be likely to cause harm to self or others.  
11 Such centers shall:

12 (1) Address or ensure access to the broad range of services to meet  
13 the needs of a juvenile admitted to the center, including, but not limited to,  
14 medical, psychiatric, psychological, social and educational services;

15 (2) not include construction features designed to physically restrict  
16 the movements and activities of juveniles, but shall have a design,  
17 structure, interior and exterior environment, and furnishings to promote a  
18 safe, comfortable and therapeutic environment for juveniles admitted to  
19 the center;

20 (3) implement written policies and procedures that include the use of  
21 a combination of supervision, inspection and accountability to promote  
22 safe and orderly operations; and

23 (4) implement written policies and procedures for staff monitoring of  
24 all center entrances and exits.

25 (b) A juvenile crisis intervention center shall provide treatment to  
26 juveniles admitted to such center, as appropriate while admitted.

27 (c) A juvenile crisis intervention center may be on the same premises  
28 as that of another licensed facility. If the juvenile crisis intervention center  
29 is on the same premises as that of another licensed facility, the living unit  
30 of the juvenile crisis intervention center shall be maintained in a separate,  
31 self-contained unit. No juvenile crisis intervention center shall be in a city  
32 or county jail or a juvenile detention facility.

33 (d) (1) A juvenile may be admitted to a juvenile crisis intervention  
34 center when:

35 (A) The head of such center determines such juvenile is in need of  
36 treatment and likely to cause harm to self or others;

1 (B) a qualified mental health professional from a community mental  
2 health center has given written authorization for such juvenile to be  
3 admitted to a juvenile crisis intervention center; and

4 (C) no other more appropriate treatment services are available and  
5 accessible to the juvenile at the time of admission.

6 (2) A juvenile may be admitted to a juvenile crisis intervention center  
7 for not more than 30 days. A parent with legal custody or legal guardian of  
8 a juvenile placed in a juvenile crisis intervention center may remove such  
9 juvenile from the center at any time. If the removal may cause the juvenile  
10 to become a child in need of care pursuant to K.S.A. 2017 Supp. 38-  
11 2202(d), and amendments thereto, the head of a juvenile crisis intervention  
12 center may report such concerns to the department for children and  
13 families or law enforcement or may request the county or district attorney  
14 to initiate proceedings pursuant to the revised Kansas code for care of  
15 children. If the head of a juvenile crisis intervention center determines the  
16 most appropriate action is to request the county or district attorney to  
17 initiate proceedings pursuant to the revised Kansas code for care of  
18 children, the head of such center shall make such request and shall keep  
19 such juvenile in the center for an additional 24-hour period to initiate the  
20 appropriate proceedings.

21 (3) When a juvenile is released from a juvenile crisis intervention  
22 center, the community mental health center where the juvenile is expected  
23 to be discharged shall be involved with discharge planning. Within seven  
24 days prior to the discharge of a juvenile, the head of the juvenile crisis  
25 intervention center shall give written notice of the date and time of the  
26 discharge to the patient, community mental health center where the  
27 juvenile is expected to be discharged, and the patient's parent, custodian or  
28 legal guardian.

29 (e) (1) No state agency shall administer or reimburse state medicaid  
30 services to any juvenile admitted to a juvenile crisis intervention center  
31 through a managed care delivery system pursuant to a waiver granted by  
32 the United States centers for medicare and medicaid services under section  
33 1115 or 1915 of the federal social security act, or any combination thereof.  
34 Any services provided to a juvenile in a juvenile crisis intervention center  
35 that qualify for medicaid reimbursement under state or federal law shall be  
36 reimbursed at a fee-for-service rate allowed by the United States centers  
37 for medicare and medicaid services.

38 (2) Nothing in this subsection shall prohibit the department of health  
39 and environment from administering or reimbursing state medicaid  
40 services to any juvenile admitted to a juvenile crisis intervention center  
41 pursuant to a waiver granted under section 1915(c) of the federal social  
42 security act, provided that such services are not administered through a  
43 managed care delivery system.

1 (3) Nothing in this subsection shall prohibit the department of health  
2 and environment from reimbursing any state medicaid services that qualify  
3 for reimbursement and that are provided to a juvenile admitted to a  
4 juvenile crisis intervention center, subject to the limitations of paragraph  
5 (1).

6 (4) Nothing in this subsection shall impair or otherwise affect the  
7 validity of any contract in existence on July 1, 2018, between a managed  
8 care organization and the department of health and environment to provide  
9 state medicaid services.

10 (5) On or before January 1, 2019, the secretary of health and  
11 environment shall submit to the United States centers for medicare and  
12 medicaid services any approval request necessary to implement this  
13 subsection.

14 (f) The secretary for children and families, in consultation with the  
15 attorney general, shall promulgate rules and regulations to implement the  
16 provisions of this section on or before January 1, 2019.

17 (g) The secretary for children and families shall annually report  
18 information on outcomes of juveniles admitted into juvenile crisis  
19 intervention centers to the joint committee on corrections and juvenile  
20 justice oversight, the corrections and juvenile justice committee of the  
21 house of representatives and the judiciary committee of the senate. Such  
22 report shall include:

23 (1) The number of admissions, releases and the lengths of stay for  
24 juveniles admitted to juvenile crisis intervention centers;

25 (2) services provided to juveniles admitted;

26 (3) needs of juveniles admitted determined by evidence-based  
27 assessment; and

28 (4) success and recidivism rates, including information on the  
29 reduction of involvement of the child welfare system and juvenile justice  
30 system with the juvenile.

31 (h) The secretary of corrections may enter into memorandums of  
32 agreement with other cabinet agencies to provide funding, not to exceed  
33 \$2,000,000 annually, from the evidence-based programs account of the  
34 state general fund or other available appropriations for juvenile crisis  
35 intervention services.

36 (i) For the purposes of this section:

37 (1) "Juvenile" means a person who is less than 18 years of age;

38 (2) "likely to cause harm to self or others" means that a juvenile, by  
39 reason of the juvenile's mental disorder is likely, in the reasonably  
40 foreseeable future, to cause substantial physical injury or physical abuse to  
41 self or others or substantial damage to another's property, as evidenced by  
42 behavior threatening, attempting or causing such injury, abuse or damage;

43 (3) "treatment" means any service intended to promote the mental

1 health of the patient and rendered by a qualified professional, licensed or  
2 certified by the state to provide such service as an independent practitioner  
3 or under the supervision of such practitioner; and

4 (4) "qualified mental health professional" means a physician or  
5 psychologist who is employed by a participating mental health center or  
6 who is providing services as a physician or psychologist under a contract  
7 with a participating mental health center, a licensed masters level  
8 psychologist, a licensed clinical psychotherapist, a licensed marriage and  
9 family therapist, a licensed clinical marriage and family therapist, a  
10 licensed professional counselor, a licensed clinical professional counselor,  
11 a licensed specialist social worker or a licensed master social worker or a  
12 registered nurse who has a specialty in psychiatric nursing, who is  
13 employed by a participating mental health center and who is acting under  
14 the direction of a physician or psychologist who is employed by, or under  
15 contract with, a participating mental health center.

16 (j) This section shall be part of and supplemental to article 5 of  
17 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

18 Sec. 2. K.S.A. 2017 Supp. 38-2231 is hereby amended to read as  
19 follows: 38-2231. (a) A law enforcement officer or court services officer  
20 shall take a child under 18 years of age into custody when:

21 (1) The law enforcement officer or court services officer has a court  
22 order commanding that the child be taken into custody as a child in need  
23 of care; or

24 (2) the law enforcement officer or court services officer has probable  
25 cause to believe that a court order commanding that the child be taken into  
26 custody as a child in need of care has been issued in this state or in another  
27 jurisdiction.

28 (b) A law enforcement officer shall take a child under 18 years of age  
29 into custody when the officer:

30 (1) Reasonably believes the child will be harmed if not immediately  
31 removed from the place or residence where the child has been found;

32 (2) has probable cause to believe that the child is a runaway or a  
33 missing person or a verified missing person entry for the child can be  
34 found in the national crime information center missing person system; ~~or~~

35 (3) reasonably believes the child is a victim of human trafficking,  
36 aggravated human trafficking or commercial sexual exploitation of a  
37 child; or

38 (4) *reasonably believes the child is experiencing a mental health*  
39 *crisis and is likely to cause harm to self or others.*

40 (c) (1) If a person provides shelter to a child whom the person knows  
41 is a runaway, such person shall promptly report the child's location either  
42 to a law enforcement agency or to the child's parent or other custodian.

43 (2) If a person reports a runaway's location to a law enforcement

1 agency pursuant to this section and a law enforcement officer of the  
2 agency has reasonable grounds to believe that it is in the child's best  
3 interests, the child may be allowed to remain in the place where shelter is  
4 being provided, subject to subsection (b), in the absence of a court order to  
5 the contrary. If the child is allowed to so remain, the law enforcement  
6 agency shall promptly notify the secretary of the child's location and  
7 circumstances.

8 (d) Except as provided in subsections (a) and (b), a law enforcement  
9 officer may temporarily detain and assume temporary custody of any child  
10 subject to compulsory school attendance, pursuant to K.S.A. 72-3120, and  
11 amendments thereto, during the hours school is actually in session and  
12 shall deliver the child pursuant to K.S.A. 2017 Supp. 38-2232(g), and  
13 amendments thereto.

14 Sec. 3. K.S.A. 2017 Supp. 38-2232 is hereby amended to read as  
15 follows: 38-2232. (a) (1) To the extent possible, when any law  
16 enforcement officer takes into custody a child under the age of 18 years  
17 without a court order, the child shall ~~forthwith~~ promptly be delivered to the  
18 custody of the child's parent or other custodian unless there are reasonable  
19 grounds to believe that such action would not be in the best interests of the  
20 child.

21 (2) Except as provided in subsection (b), if the child is not delivered  
22 to the custody of the child's parent or other custodian, the child shall  
23 ~~forthwith~~ promptly be delivered to a:

24 (A) (i) Shelter facility designated by the court;;

25 (ii) court services officer;;

26 (iii) juvenile intake and assessment worker;;

27 (iv) licensed attendant care center;;

28 (v) *juvenile crisis intervention center after written authorization by a*  
29 *community mental health center; or*

30 (vi) other person~~or~~;

31 (B) if the child is 15 years of age or younger, ~~or~~ to a facility or person  
32 *designated by the secretary; or*

33 (C) *if the child is 16 or 17 years of age* ~~if and~~ the child has no  
34 identifiable parental or family resources or shows signs of physical,  
35 mental, emotional or sexual abuse, to a facility or person designated by the  
36 secretary.

37 (3) If, after delivery of the child to a shelter facility, the person in  
38 charge of the shelter facility at that time and the law enforcement officer  
39 determine that the child will not remain in the shelter facility and if the  
40 child is presently alleged, but not yet adjudicated, to be a child in need of  
41 care solely pursuant to ~~subsection (d)(9) or (d)(10) of~~ K.S.A. 2017 Supp.  
42 ~~38-2202(d)(9) or (d)(10)~~, and amendments thereto, the law enforcement  
43 officer shall deliver the child to a juvenile detention facility or other secure

1 facility, designated by the court, where the child shall be detained for not  
2 more than 24 hours, excluding Saturdays, Sundays, legal holidays, and  
3 days on which the office of the clerk of the court is not accessible.

4 (4) No child taken into custody pursuant to this code shall be placed  
5 in a juvenile detention facility or other secure facility, except as authorized  
6 by this section and by K.S.A. 2017 Supp. 38-2242, 38-2243 and 38-2260,  
7 and amendments thereto.

8 (5) It shall be the duty of the law enforcement officer to furnish to the  
9 county or district attorney, without unnecessary delay, all the information  
10 in the possession of the officer pertaining to the child, the child's parents or  
11 other persons interested in or likely to be interested in the child and all  
12 other facts and circumstances which caused the child to be taken into  
13 custody.

14 (b) (1) When any law enforcement officer takes into custody any  
15 child as provided in ~~subsection (b)(2) of K.S.A. 2017 Supp. 38-2231(b)(2)~~,  
16 and amendments thereto, proceedings shall be initiated in accordance with  
17 the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et  
18 seq., and amendments thereto, or K.S.A. 2017 Supp. 38-1008, and  
19 amendments thereto, when effective. Any child taken into custody  
20 pursuant to the interstate compact on juveniles may be detained in a  
21 juvenile detention facility or other secure facility.

22 (2) When any law enforcement officer takes into custody any child as  
23 provided in ~~subsection (b)(3) of K.S.A. 2017 Supp. 38-2231(b)(3)~~, and  
24 amendments thereto, the law enforcement officer shall place the child in  
25 protective custody and may deliver the child to a staff secure facility. The  
26 law enforcement officer shall contact the department for children and  
27 families to begin an assessment to determine safety, placement and  
28 treatment needs for the child. Such child shall not be placed in a juvenile  
29 detention facility or other secure facility, except as authorized by this  
30 section and by K.S.A. 2017 Supp. 38-2242, 38-2243 and 38-2260, and  
31 amendments thereto.

32 (3) *When any law enforcement officer takes into custody any child as*  
33 *provided in K.S.A. 2017 Supp. 38-2231(b)(4), and amendments thereto,*  
34 *the law enforcement officer shall place the child in protective custody and*  
35 *may deliver the child to a juvenile crisis intervention center after written*  
36 *authorization by a community mental health center. Such child shall not be*  
37 *placed in a juvenile detention facility or other secure facility.*

38 (c) Whenever a child under the age of 18 years is taken into custody  
39 by a law enforcement officer without a court order and is thereafter placed  
40 as authorized by subsection (a), the facility or person shall, upon written  
41 application of the law enforcement officer, have physical custody and  
42 provide care and supervision for the child. The application shall state:

43 (1) The name and address of the child, if known;

1 (2) the names and addresses of the child's parents or nearest relatives  
2 and persons with whom the child has been residing, if known; and

3 (3) the officer's belief that the child is a child in need of care and that  
4 there are reasonable grounds to believe that the circumstances or condition  
5 of the child is such that the child would be harmed unless placed in the  
6 immediate custody of the shelter facility or other person.

7 (d) A copy of the application shall be furnished by the facility or  
8 person receiving the child to the county or district attorney without  
9 unnecessary delay.

10 (e) The shelter facility or other person designated by the court who  
11 has custody of the child pursuant to this section shall discharge the child  
12 not later than 72 hours following admission, excluding Saturdays,  
13 Sundays, legal holidays, and days on which the office of the clerk of the  
14 court is not accessible, unless a court has entered an order pertaining to  
15 temporary custody or release.

16 (f) In absence of a court order to the contrary, the county or district  
17 attorney or the placing law enforcement agency shall have the authority to  
18 direct the release of the child at any time.

19 (g) When any law enforcement officer takes into custody any child as  
20 provided in ~~subsection (d)~~ of K.S.A. 2017 Supp. 38-2231(d), and  
21 amendments thereto, the child shall ~~forthwith~~ *promptly* be delivered to the  
22 school in which the child is enrolled, any location designated by the school  
23 in which the child is enrolled or the child's parent or other custodian.

24 Sec. 4. K.S.A. 2017 Supp. 38-2242 is hereby amended to read as  
25 follows: 38-2242. (a) The court, upon verified application, may issue ex  
26 parte an order directing that a child be held in protective custody and, if  
27 the child has not been taken into custody, an order directing that the child  
28 be taken into custody. The application shall state for each child:

29 (1) The applicant's belief that the child is a child in need of care;

30 (2) that the child is likely to sustain harm if not immediately removed  
31 from the home;

32 (3) that allowing the child to remain in the home is contrary to the  
33 welfare of the child; and

34 (4) the facts relied upon to support the application, including efforts  
35 known to the applicant to maintain the family unit and prevent the  
36 unnecessary removal of the child from the child's home, or the specific  
37 facts supporting that an emergency exists which threatens the safety of the  
38 child.

39 (b) (1) The order of protective custody may be issued only after the  
40 court has determined there is probable cause to believe the allegations in  
41 the application are true. The order shall remain in effect until the  
42 temporary custody hearing provided for in K.S.A. 2017 Supp. 38-2243,  
43 and amendments thereto, unless earlier rescinded by the court.

1 (2) No child shall be held in protective custody for more than 72  
2 hours, excluding Saturdays, Sundays, legal holidays, and days on which  
3 the office of the clerk of the court is not accessible, unless within the 72-  
4 hour period a determination is made as to the necessity for temporary  
5 custody in a temporary custody hearing. The time spent in custody  
6 pursuant to K.S.A. 2017 Supp. 38-2232, and amendments thereto, shall be  
7 included in calculating the 72-hour period. Nothing in this subsection shall  
8 be construed to mean that the child must remain in protective custody for  
9 72 hours. If a child is in the protective custody of the secretary, the  
10 secretary shall allow at least one supervised visit between the child and the  
11 parent or parents within such time period as the child is in protective  
12 custody. The court may prohibit such supervised visit if the court  
13 determines it is not in the best interest of the child.

14 (c) (1) Whenever the court determines the necessity for an order of  
15 protective custody, the court may place the child in the protective custody of  
16 of:

17 (A) A parent or other person having custody of the child and may  
18 enter a restraining order pursuant to subsection (e);

19 (B) a person, other than the parent or other person having custody,  
20 who shall not be required to be licensed under article 5 of chapter 65 of the  
21 Kansas Statutes Annotated, and amendments thereto;

22 (C) a youth residential facility;

23 (D) a shelter facility;

24 (E) a staff secure facility, notwithstanding any other provision of law,  
25 if the child has been subjected to human trafficking or aggravated human  
26 trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments  
27 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.  
28 2017 Supp. 21-6422, and amendments thereto, or the child committed an  
29 act which, if committed by an adult, would constitute a violation of K.S.A.  
30 2017 Supp. 21-6419, and amendments thereto;

31 (F) *after written authorization by a community mental health center,*  
32 *a juvenile crisis intervention center as described in section 1, and*  
33 *amendments thereto; or*

34 ~~(F)~~(G) the secretary, if the child is 15 years of age or younger, or 16  
35 or 17 years of age if the child has no identifiable parental or family  
36 resources or shows signs of physical, mental, emotional or sexual abuse.

37 (2) If the secretary presents the court with a plan to provide services  
38 to a child or family which the court finds will assure the safety of the  
39 child, the court may only place the child in the protective custody of the  
40 secretary until the court finds the services are in place. The court shall  
41 have the authority to require any person or entity agreeing to participate in  
42 the plan to perform as set out in the plan. When the child is placed in the  
43 protective custody of the secretary, the secretary shall have the



1 discretionary authority to place the child with a parent or to make other  
2 suitable placement for the child. When the child is placed in the temporary  
3 custody of the secretary and the child has been subjected to human  
4 trafficking or aggravated human trafficking, as defined by K.S.A. 2017  
5 Supp. 21-5426, and amendments thereto, or commercial sexual  
6 exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and  
7 amendments thereto, or the child committed an act which, if committed by  
8 an adult, would constitute a violation of K.S.A. 2017 Supp. 21-6419, and  
9 amendments thereto, the secretary shall have the discretionary authority to  
10 place the child in a staff secure facility, notwithstanding any other  
11 provision of law. When the child is presently alleged, but not yet  
12 adjudicated, to be a child in need of care solely pursuant to ~~subsection (d)~~  
13 ~~(9) or (d)(10)~~ of K.S.A. 2017 Supp. 38-2202(d)(9) or (d)(10), and  
14 amendments thereto, the child may be placed in a juvenile detention  
15 facility or other secure facility pursuant to an order of protective custody  
16 for a period of not to exceed 24 hours, excluding Saturdays, Sundays, legal  
17 holidays, and days on which the office of the clerk of the court is not  
18 accessible.

19 (d) The order of protective custody shall be served pursuant to  
20 ~~subsection (a)~~ of K.S.A. 2017 Supp. 38-2237(a), and amendments thereto,  
21 on the child's parents and any other person having legal custody of the  
22 child. The order shall prohibit the removal of the child from the court's  
23 jurisdiction without the court's permission.

24 (e) If the court issues an order of protective custody, the court may  
25 also enter an order restraining any alleged perpetrator of physical, sexual,  
26 mental or emotional abuse of the child from residing in the child's home;  
27 visiting, contacting, harassing or intimidating the child, other family  
28 member or witness; or attempting to visit, contact, harass or intimidate the  
29 child, other family member or witness. Such restraining order shall be  
30 served by personal service pursuant to ~~subsection (a)~~ of K.S.A. 2017 Supp.  
31 38-2237(a), and amendments thereto, on any alleged perpetrator to whom  
32 the order is directed.

33 (f) (1) The court shall not enter the initial order removing a child  
34 from the custody of a parent pursuant to this section unless the court first  
35 finds probable cause that: (A) (i) The child is likely to sustain harm if not  
36 immediately removed from the home;

37 (ii) allowing the child to remain in home is contrary to the welfare of  
38 the child; or

39 (iii) immediate placement of the child is in the best interest of the  
40 child; and

41 (B) reasonable efforts have been made to maintain the family unit and  
42 prevent the unnecessary removal of the child from the child's home or that  
43 an emergency exists which threatens the safety to the child.

1 (2) Such findings shall be included in any order entered by the court.  
2 If the child is placed in the custody of the secretary, the court shall provide  
3 the secretary with a written copy of any orders entered upon making the  
4 order.

5 Sec. 5. K.S.A. 2017 Supp. 38-2243 is hereby amended to read as  
6 follows: 38-2243. (a) Upon notice and hearing, the court may issue an  
7 order directing who shall have temporary custody and may modify the  
8 order during the pendency of the proceedings as will best serve the child's  
9 welfare.

10 (b) A hearing pursuant to this section shall be held within 72 hours,  
11 excluding Saturdays, Sundays, legal holidays, and days on which the  
12 office of the clerk of the court is not accessible, following a child having  
13 been taken into protective custody.

14 (c) Whenever it is determined that a temporary custody hearing is  
15 required, the court shall immediately set the time and place for the hearing.  
16 Notice of a temporary custody hearing shall be given to all parties and  
17 interested parties.

18 (d) Notice of the temporary custody hearing shall be given at least 24  
19 hours prior to the hearing. The court may continue the hearing to afford the  
20 24 hours prior notice or, with the consent of the party or interested party,  
21 proceed with the hearing at the designated time. If an order of temporary  
22 custody is entered and the parent or other person having custody of the  
23 child has not been notified of the hearing, did not appear or waive  
24 appearance and requests a rehearing, the court shall rehear the matter  
25 without unnecessary delay.

26 (e) Oral notice may be used for giving notice of a temporary custody  
27 hearing where there is insufficient time to give written notice. Oral notice  
28 is completed upon filing a certificate of oral notice.

29 (f) The court may enter an order of temporary custody after  
30 determining there is probable cause to believe that the: (1) Child is  
31 dangerous to self or to others; (2) child is not likely to be available within  
32 the jurisdiction of the court for future proceedings; (3) health or welfare of  
33 the child may be endangered without further care; (4) child has been  
34 subjected to human trafficking or aggravated human trafficking, as defined  
35 by K.S.A. 2017 Supp. 21-5426, and amendments thereto, or commercial  
36 sexual exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422,  
37 and amendments thereto; (5) *child is experiencing a mental health crisis*  
38 *and is in need of treatment*; or ~~(5)~~ (6) child committed an act which, if  
39 committed by an adult, would constitute a violation of K.S.A. 2017 Supp.  
40 21-6419, and amendments thereto.

41 (g) (1) Whenever the court determines the necessity for an order of  
42 temporary custody the court may place the child in the temporary custody  
43 of:

1 (A) A parent or other person having custody of the child and may  
2 enter a restraining order pursuant to subsection (h);

3 (B) a person, other than the parent or other person having custody,  
4 who shall not be required to be licensed under article 5 of chapter 65 of the  
5 Kansas Statutes Annotated, and amendments thereto;

6 (C) a youth residential facility;

7 (D) a shelter facility;

8 (E) a staff secure facility, notwithstanding any other provision of law,  
9 if the child has been subjected to human trafficking or aggravated human  
10 trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments  
11 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.  
12 2017 Supp. 21-6422, and amendments thereto, or the child committed an  
13 act which, if committed by an adult, would constitute a violation of K.S.A.  
14 2017 Supp. 21-6419, and amendments thereto;

15 (F) *after written authorization by a community mental health center,*  
16 *a juvenile crisis intervention center, as described in section 1, and*  
17 *amendments thereto; or*

18 ~~(F)~~(G) the secretary, if the child is 15 years of age or younger, or 16  
19 or 17 years of age if the child has no identifiable parental or family  
20 resources or shows signs of physical, mental, emotional or sexual abuse.

21 (2) If the secretary presents the court with a plan to provide services  
22 to a child or family which the court finds will assure the safety of the  
23 child, the court may only place the child in the temporary custody of the  
24 secretary until the court finds the services are in place. The court shall  
25 have the authority to require any person or entity agreeing to participate in  
26 the plan to perform as set out in the plan. When the child is placed in the  
27 temporary custody of the secretary, the secretary shall have the  
28 discretionary authority to place the child with a parent or to make other  
29 suitable placement for the child. When the child is placed in the temporary  
30 custody of the secretary and the child has been subjected to human  
31 trafficking or aggravated human trafficking, as defined by K.S.A. 2017  
32 Supp. 21-5426, and amendments thereto, or commercial sexual  
33 exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and  
34 amendments thereto, or the child committed an act which, if committed by  
35 an adult, would constitute a violation of K.S.A. 2017 Supp. 21-6419, and  
36 amendments thereto, the secretary shall have the discretionary authority to  
37 place the child in a staff secure facility, notwithstanding any other  
38 provision of law. When the child is presently alleged, but not yet  
39 adjudicated to be a child in need of care solely pursuant to ~~subsection (d)~~  
40 ~~(9) or (d)(10)~~ of K.S.A. 2017 Supp. 38-2202(d)(9) or (d)(10), and  
41 amendments thereto, the child may be placed in a juvenile detention  
42 facility or other secure facility, but the total amount of time that the child  
43 may be held in such facility under this section and K.S.A. 2017 Supp. 38-

1 2242, and amendments thereto, shall not exceed 24 hours, excluding  
2 Saturdays, Sundays, legal holidays, and days on which the office of the  
3 clerk of the court is not accessible. The order of temporary custody shall  
4 remain in effect until modified or rescinded by the court or an adjudication  
5 order is entered but not exceeding 60 days, unless good cause is shown  
6 and stated on the record.

7 (h) If the court issues an order of temporary custody, the court may  
8 also enter an order restraining any alleged perpetrator of physical, sexual,  
9 mental or emotional abuse of the child from residing in the child's home;  
10 visiting, contacting, harassing or intimidating the child; or attempting to  
11 visit, contact, harass or intimidate the child, other family members or  
12 witnesses. Such restraining order shall be served by personal service  
13 pursuant to ~~subsection (a)~~ of K.S.A. 2017 Supp. 38-2237(a), and  
14 amendments thereto, on any alleged perpetrator to whom the order is  
15 directed.

16 (i) (1) The court shall not enter the initial order removing a child from  
17 the custody of a parent pursuant to this section unless the court first finds  
18 probable cause that: (A) (i) The child is likely to sustain harm if not  
19 immediately removed from the home;

20 (ii) allowing the child to remain in home is contrary to the welfare of  
21 the child; or

22 (iii) immediate placement of the child is in the best interest of the  
23 child; and

24 (B) reasonable efforts have been made to maintain the family unit and  
25 prevent the unnecessary removal of the child from the child's home or that  
26 an emergency exists which threatens the safety to the child.

27 (2) Such findings shall be included in any order entered by the court.  
28 If the child is placed in the custody of the secretary, upon making the order  
29 the court shall provide the secretary with a written copy.

30 (j) If the court enters an order of temporary custody that provides for  
31 placement of the child with a person other than the parent, the court shall  
32 make a child support determination pursuant to K.S.A. 2017 Supp. 38-  
33 2277, and amendments thereto.

34 Sec. 6. K.S.A. 2017 Supp. 38-2330 is hereby amended to read as  
35 follows: 38-2330. (a) A law enforcement officer may take a juvenile into  
36 custody when:

37 (1) Any offense has been or is being committed in the officer's view;

38 (2) the officer has a warrant commanding that the juvenile be taken  
39 into custody;

40 (3) the officer has probable cause to believe that a warrant or order  
41 commanding that the juvenile be taken into custody has been issued in this  
42 state or in another jurisdiction for an act committed therein;

43 (4) the officer has probable cause to believe that the juvenile is

1 committing or has committed an act which, if committed by an adult,  
2 would constitute:

3 (A) A felony; or

4 (B) a misdemeanor and: (i) The juvenile will not be apprehended or  
5 evidence of the offense will be irretrievably lost unless the juvenile is  
6 immediately taken into custody; or (ii) the juvenile may cause injury to  
7 self or others or damage to property or may be injured unless immediately  
8 taken into custody;

9 (5) the officer has probable cause to believe that the juvenile has  
10 violated an order for electronic monitoring as a term of probation; or

11 (6) the officer receives a written statement pursuant to subsection (c).

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

19 (c) Any court services officer, juvenile community corrections officer  
20 or other person authorized to supervise juveniles subject to this code, may  
21 request a warrant by giving the court a written statement setting forth that  
22 the juvenile, in the judgment of the court services officer, juvenile  
23 community corrections officer or other person authorized to supervise  
24 juveniles subject to this code:

25 (1) (A) Has violated the condition of the juvenile's conditional release  
26 from detention or probation, for the third or subsequent time; and

27 (B) poses a significant risk of physical harm to another or damage to  
28 property; or

29 (2) has absconded from supervision.

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

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

38 (A) Issue a notice to appear pursuant to subsection (g); ~~or~~

39 (B) contact or deliver the juvenile to an intake and assessment worker  
40 for completion of the intake and assessment process pursuant to K.S.A.  
41 75-7023, and amendments thereto; *or*

42 (C) *if the juvenile is determined to not be detention eligible based on*  
43 *a standardized detention risk assessment tool and is experiencing a mental*

1 *health crisis, deliver a juvenile to a juvenile crisis intervention center, as*  
2 *described in section 1, and amendments thereto, after written*  
3 *authorization by a community mental health center.*

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

12 (e) In the absence of a court order to the contrary, the court or  
13 officials designated by the court, the county or district attorney or the law  
14 enforcement agency taking a juvenile into custody shall direct the release  
15 prior to the time specified by K.S.A. 2017 Supp. 38-2343(a), and  
16 amendments thereto. In addition, pursuant to K.S.A. 75-7023 and K.S.A.  
17 2017 Supp. 38-2346, and amendments thereto, a juvenile intake and  
18 assessment worker shall direct the release of a juvenile prior to a detention  
19 hearing after the completion of the intake and assessment process.

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

39 (g) (1) Whenever a law enforcement officer detains any juvenile and  
40 such juvenile is not immediately taken to juvenile intake and assessment  
41 services, the officer may serve upon such juvenile a written notice to  
42 appear. Such notice to appear shall contain the name and address of the  
43 juvenile detained, the crime charged and the location and phone number of

1 the juvenile intake and assessment services office where the juvenile will  
2 need to appear with a parent or guardian.

3 (2) The juvenile intake and assessment services office specified in  
4 such notice to appear must be contacted by the juvenile or a parent or  
5 guardian no more than 48 hours after such notice is given, excluding  
6 weekends and holidays.

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

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

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

24 Sec. 7. K.S.A. 2017 Supp. 75-52,164 is hereby amended to read as  
25 follows: 75-52,164. (a) There is hereby established in the state treasury the  
26 evidence-based programs account of the state general fund, which shall be  
27 administered by the department of corrections. All expenditures from the  
28 evidence-based programs account of the state general fund shall be for the  
29 development and implementation of evidence-based community programs  
30 and practices for juvenile offenders, *juveniles experiencing mental health*  
31 *crisis* and their families by community supervision offices, including, but  
32 not limited to, juvenile intake and assessment, court services—~~and~~,  
33 community corrections *and juvenile crisis intervention centers*. All  
34 expenditures from the evidence-based programs account of the state  
35 general fund shall be made in accordance with appropriation acts upon  
36 warrants of the director of accounts and reports issued pursuant to  
37 vouchers approved by the secretary of corrections or the secretary's  
38 designee.

39 (b) At least annually, throughout the year, the secretary of corrections  
40 shall determine and certify to the director of accounts and reports the  
41 amount in each account of the state general fund of a state agency that has  
42 been determined by the secretary to be actual or projected cost savings as a  
43 result of cost avoidance resulting from decreased reliance on incarceration

1 in the juvenile correctional facility and placement in youth residential  
2 centers. The baseline shall be calculated on the cost of incarceration and  
3 placement in fiscal year 2015.

4 (c) Upon receipt of a certification pursuant to subsection (b), the  
5 director of accounts and reports shall transfer the amount certified  
6 pursuant to subsection (b) from each account of the state general fund of a  
7 state agency that has been determined by the secretary of corrections to be  
8 actual or projected cost savings to the evidence-based programs account of  
9 the state general fund.

10 (d) Prioritization of evidence-based programs account of the state  
11 general fund moneys will be given to regions that demonstrate a high rate  
12 of out-of-home placement of juvenile offenders per capita that have few  
13 existing community-based alternatives.

14 (e) During fiscal years 2017 and 2018, the secretary of corrections  
15 shall transfer an amount not to exceed \$8,000,000 from appropriated  
16 department of corrections moneys from the state general fund or any  
17 available special revenue fund or funds that are budgeted for the purposes  
18 of facilitating the development and implementation of new community  
19 placements in conjunction with the reduction in out-of-home placements.

20 (f) The evidence-based programs account of the state general fund  
21 and any other moneys transferred pursuant to this section shall be used for  
22 the purposes set forth in this section and for no other governmental  
23 purposes. It is the intent of the legislature that the funds and the moneys  
24 deposited in this fund shall remain intact and inviolate for the purposes set  
25 forth in this section.

26 Sec. 8. K.S.A. 2017 Supp. 38-2231, 38-2232, 38-2242, 38-2243, 38-  
27 2330 and 75-52,164 are hereby repealed.

28 Sec. 9. This act shall take effect and be in force from and after its  
29 publication in the statute book.