Session of 2016

Senate Substitute for HOUSE BILL No. 2382

By Committee on Corrections and Juvenile Justice

3-7

AN ACT concerning children and minors; relating to juvenile justice; amending K.S.A. 12-4112 and 20-167 and K.S.A. 2015 Supp. 8-241, 8-2110, 12-4117, 38-2202, 38-2232, 38-2242, 38-2243, 38-2260, 38-2288, 38-2302, 38-2304, 38-2313, 38-2325, 38-2330, 38-2331, 38-2332, 38-2342, 38-2343, 38-2344, 38-2346, 38-2347, 38-2360, 38-2361, 38-2364, 38-2366, 38-2367, 38-2368, 38-2369, 38-2371, 38-2372, 38-2373, 38-2374, 38-2375, 38-2376, 38-2377, 38-2389, 65-5603, 72-1113, 72-8222, 72-89b03, 72-89c02, 74-4914, 75-7023, 75-7038, 75-7044, 75-7046 and 79-4803 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 38-2334, 38-2335 and 38-2365.

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

Section 1. (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 sentencing alternatives under K.S.A. 2015 Supp. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 2015 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. 2015 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 only 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. 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.

(3) The probation term limits do not apply to those offenders adjudicated for an off-grid crime, rape as defined in K.S.A. 2015 Supp. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 2015 Supp. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 2015 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. 2015 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 30 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.

New Sec. 2. (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. 2015 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. 2015 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.

New Sec. 3. (a) (1) The court shall appoint a multidisciplinary team

to review cases in which a juvenile fails to substantially comply with the development of the immediate intervention plan pursuant to K.S.A. 2015 Supp. 38-2346(b), and amendments thereto. The team may be a standing multidisciplinary team or may be appointed for a specific juvenile. (2) The supreme court shall appoint a multidisciplinary team facilitator in each judicial district. The supreme court may appoint a convener and facilitator for a multiple district multidisciplinary team.

(b) The multidisciplinary team facilitator shall invite the following individuals to be part of the multidisciplinary team:

(1) The juvenile;

(2) the juvenile's parents, guardians or custodial relative;

(3) the superintendent of schools or the superintendent's designee;

(4) a clinician who has training and experience coordinating behavioral or mental health treatment for juveniles if such clinician is available; and

(5) any other person or agency representative who is needed to assist in providing recommendations for the particular needs of the juvenile and family.

(c) Any person appointed as a member of a multidisciplinary team may decline to serve and shall incur no civil liability as a result of declining to serve.

(d) This section shall take effect on and after January 1, 2017.

New Sec. 4. (a) There is hereby established the Kansas juvenile justice oversight committee for the purpose of overseeing the implementation of reform measures intended to improve the state's juvenile justice system.

(b) The Kansas juvenile justice oversight committee shall be composed of 19 members including the following individuals:

(1) The governor or the governor's designee;

(2) one member of the house of representatives appointed by the speaker of the house of representatives;

(3) one member of the house of representatives appointed by the minority leader of the house of representatives;

(4) one member of the senate appointed by the president of the senate;

(5) one member of the senate appointed by the minority leader of the senate;

(6) the secretary of corrections or the secretary's designee;

(7) the secretary for children and families or the secretary's designee;

(8) the commissioner of education or the commissioner's designee;

(9) the deputy secretary of juvenile services at the department of corrections or the deputy's designee;

(10) the director of community-based services at the department of

corrections, or the director's designee;

(11) two district court judges appointed by the chief justice of the supreme court;

(12) one chief court services officer appointed by the chief justice of the supreme court;

(13) one member of the office of judicial administration appointed by the chief justice of the supreme court;

(14) one juvenile defense attorney appointed by the chief justice of the supreme court;

(15) one juvenile crime victim advocate appointed by the governor;

(16) one member from a local law enforcement agency appointed by the governor;

(17) one member from a prosecuting attorney's office appointed by the governor; and

(18) one member from a community corrections agency appointed by the governor.

(c) The committee shall be appointed by January 1, 2017, and shall meet within 90 days after appointment and at least quarterly thereafter, upon notice by the chair. The committee shall select a chairperson and vice-chairperson, and 10 members shall be considered a quorum.

(d) The committee shall perform the following duties:

(1) Guide and evaluate the implementation of the changes in law relating to juvenile justice reform;

(2) define performance measures and recidivism;

(3) approve a plan developed by court services and the department of corrections instituting a uniform process for collecting and reviewing performance measures and recidivism, costs and outcomes of programs;

(4) consider utilizing the Kansas criminal justice information system for data collection and analyses;

(5) ensure system integration and accountability;

(6) monitor the fidelity of implementation efforts to programs and training efforts;

(7) calculate any state expenditures that have been avoided by reductions in the number of youth placed in out-of-home placements to recommend to the governor and the legislature reinvestment of funds into:

(A) Evidence-based practices and programs in the community pursuant to K.S.A. 2015 Supp. 38-2302, and amendments thereto, for use by intake and assessment services, immediate intervention, probation and conditional release;

(B) training on evidence-based practices for juvenile justice system staff, including, but not limited to, training in cognitive behavioral therapies, family-centered therapies, substance abuse, sex offender therapy and other services that address a juvenile's risks and needs; and

(C) monitor the plan from the department of corrections for the prioritization of funds pursuant to section 13(d), and amendments thereto;

(8) continue to review any additional topics relating to the continued improvement of the juvenile justice system, including:

(A) The confidentiality of juvenile records;

(B) the reduction of the financial burden placed on families involved in the juvenile justice system;

(C) the improvement of conditions of confinement for juveniles; and

(D) the removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and

(9) adhere to the goals of the juvenile justice code as provided in K.S.A. 2015 Supp. 38-2301, and amendments thereto.

(e) The committee shall issue an annual report to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before November 30th each year starting in 2017. Such report shall include:

(1) An assessment of the progress made in implementation of juvenile justice reform efforts;

(2) a summary of the committee's efforts in fulfilling its duties as set forth in this section;

(3) an analysis of the recidivism data obtained by the committee pursuant to this section;

(4) a summary of the averted costs calculated by the committee pursuant to this section and a recommendation for any reinvestment of the averted costs to fund services or programs to expand Kansas' continuum of alternatives for juveniles who would otherwise be placed in out-of-home placements;

(5) an analysis of detention risk-assessment data to determine if any disparate impacts resulted at any stage of the juvenile justice system based on race, sex, national origin or economic status; and

(6) recommendations for continued improvements to the juvenile justice system.

(f) After initial appointment, members appointed to this committee by the governor, the president of the senate, the speaker of the house of representatives or the chief justice of the supreme court pursuant to subsection (b), shall serve for a term of two years and shall be eligible for reappointment to such position. All members appointed to the committee shall serve until a successor has been duly appointed.

New Sec. 5. (a) Training on evidence-based programs and practices shall be mandatory for all individuals who work with juveniles adjudicated or participating in an immediate intervention under the Kansas revised juvenile justice code. Such individuals shall include, but not be limited to:

(1) Community supervision officers;
(2) juvenile intake and assessment workers;
(3) juvenile corrections officers; and
(4) any individual who works with juveniles through a contracted organization providing services to juveniles.

(b) The department of corrections, in conjunction with the office of judicial administration shall provide training in evidence-based programs and practices on not less than a semi-annual basis to those required to receive such training pursuant to subsection (a).

New Sec. 6. (a) The department of corrections, in collaboration with the office of judicial administration, shall develop standards and procedures to guide the administration of an immediate intervention process and programs developed pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto, and alternative means of adjudication pursuant to K.S.A. 2015 Supp. 38-2389, and amendments thereto. Such standards and procedures shall include, but not be limited to:
(1) Contact requirements;
(2) parent engagement;
(3) graduated response and discharge requirements; and
(4) process and quality assurance.

(b) This section shall take effect on and after January 1, 2017.

New Sec. 7. (a) When a juvenile is placed outside the juvenile's home at a dispositional hearing pursuant to K.S.A. 2015 Supp. 38-2361(k), and amendments thereto, and no reintegration plan is made a part of the record of the hearing, a written reintegration plan shall be prepared and submitted to the court within 15 days of the initial order of the court.

(b) The plan shall be prepared by the person who has custody or, if directed by the court, by a community supervision officer.

(c) If there is a lack of agreement among persons necessary for the success of the plan, the person or entity having custody of the child shall notify the court, and the court shall set a hearing pursuant to K.S.A. 2015 Supp. 38-2367, and amendments thereto.

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

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

New Sec. 8. For purposes of determining a release date of a juvenile offender from custody of the secretary of corrections, the secretary shall promulgate rules and regulations by January 1, 2017, regarding earned time calculations.

New Sec. 9. For purposes of determining release of a juvenile from probation, the supreme court, in consultation with the department of corrections, shall establish rules for a system of earned discharge for juvenile probationers to be applied by all community supervision officers.

A probationer shall be awarded earned discharge credits while on probation for each full calendar month of compliance with terms of supervised probation pursuant to the rules developed by the supreme court.

New Sec. 10. (a) The office of judicial administration shall designate or develop a training protocol for judges, county and district attorneys and defense attorneys who work in juvenile court.

(b) The office of judicial administration shall report annually to the legislature and to the juvenile justice oversight committee established pursuant to section 4, and amendments thereto, data pertaining to the completion of the training protocol, including, but not limited to, the number of judges, district and county attorneys and defense attorneys who did and did not complete the training protocol.

New Sec. 11. (a) The department of corrections shall create a plan and provide funding to incentivize the development of immediate intervention programs established pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto.

(b) Funds allocated in accordance with such plan shall be used only for the purpose of making grants to immediate intervention programs that adhere to the standards and procedures for such programs developed pursuant to section 6, and amendments thereto, and shall be based on the number of persons served and such other requirements as may be established by the department of corrections. The plan may include requirements for grant applications, organizational characteristics, reporting and auditing criteria and such other standards for eligibility and accountability.

(c) This section shall take effect on and after January 1, 2017.

New Sec. 12. The department of corrections shall develop for use by the courts pursuant to K.S.A. 2015 Supp. 38-2367(d), and amendments thereto, community integration programs for juveniles who are ready to transition to independent living. Community integration programs shall be designed to prepare juveniles to become socially and financially independent from the program.

New Sec. 13. (a) There is hereby established in the state treasury the Kansas juvenile justice improvement fund, which shall be administered by the department of corrections. All expenditures from the Kansas juvenile justice improvement fund shall be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including, but not limited to, juvenile intake and assessment, court services and community corrections. All expenditures from the Kansas juvenile justice improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of corrections or the secretary's

designee.

(b) Annually, on or before June 30, the secretary of corrections shall determine and certify to the director of accounts and reports the amount in each account of the state general fund of a state agency that has been determined by the secretary to be actual or projected cost savings as a result of cost avoidance resulting from decreased reliance on incarceration in the juvenile correctional facility and placement in youth residential centers. The baseline shall be calculated on the cost of incarceration and placement in fiscal year 2015.

(c) Annually, on July 1 or as soon thereafter as moneys are available, the director of accounts and reports shall transfer the amount certified pursuant to subsection (b) from each account of the state general fund of a state agency that has been determined by the secretary of corrections to be actual or projected cost savings to the Kansas juvenile justice improvement fund.

(d) Prioritization of funds will be given to regions that demonstrate a high rate of out-of-home placement of juvenile offenders per capita that have few existing community-based alternatives.

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

New Sec. 14. (a) The attorney general shall, in collaboration with the Kansas law enforcement training center and the state board of education, promulgate rules and regulations by January 1, 2017, creating a skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.

(b) The skill development training shall include, but not be limited to, the following:

(1) Information on adolescent development;

(2) risk and needs assessments;

(3) mental health;

(4) diversity;

(5) youth crisis intervention;

(6) substance abuse prevention;

(7) trauma-informed responses; and

(8) other evidence-based practices in school policing to mitigate student juvenile justice exposure.

(c) The superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school shall complete the skill development training.

New Sec. 15. Juveniles who are alleged to be juvenile offenders shall have a right to a speedy trial and a right to a preliminary hearing.

New Sec. 16. The department of corrections and the Kansas juvenile justice oversight committee 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. Such data exchange will be controlled utilizing the Kansas criminal justice information system. 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.

Sec. 17. K.S.A. 2015 Supp. 8-241 is hereby amended to read as follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person's license pursuant to K.S.A. 8-1014, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be $25. In addition, any person required to submit to an examination pursuant to subsection (a)(2) as the result of a test failure, a conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of $200 after the first occurrence, $400 after the second occurrence, $600 after the

third occurrence and $800 after the fourth or subsequent occurrence; and as a result of a test refusal, a conviction for a violation of K.S.A. 2015 Supp. 8-1025, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 2015 Supp. 8-1025, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of $600 after the first occurrence, $900 after the second occurrence, $1,200 after the third occurrence and $1,500 after the fourth or subsequent occurrence.

(1) All examination fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A. 8-267, and amendments thereto.

(2) On and after July 1, 2014, through June 30, 2018, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 26% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 12% to the juvenile *alternatives to* detention ~~facilities~~ fund created by K.S.A. 79-4803, and amendments thereto, 12% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, 17% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto, and 33% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 20-1a15, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(3) On and after July 1, 2018, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 35% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile *alternatives to* detention ~~facilities~~ fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, and 25% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by K.S.A. 8-247(e), and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.

(e) The division may issue a driver's license with a DUI-IID designation for a licensee that is operating under ignition interlock restrictions required by K.S.A. 8-1014, and amendments thereto. The reexamination requirement in subsection (a)(2) shall not require reexamination and payment of reinstatement fees until the end of the licensee's ignition interlock restriction period. If the applicant's Kansas driver's license has been expired for one year or more, the applicant must complete a reexamination and pay any applicable reinstatement fees before qualifying for a driver's license with an ignition interlock designation. All other requirements for issuance and renewal of a driver's license under K.S.A. 8-240, and amendments thereto, shall continue to apply. The renewal periods and other requirements in K.S.A. 8-247, and amendments thereto, shall apply. The fees charged for the driver's license with ignition interlock designation shall include: (1) The fee amounts set out in K.S.A. 8-240(f), and amendments thereto; (2) fees prescribed by the secretary of revenue and required in K.S.A. 8-243(a), and amendments thereto; and (3) a $10 fee to the DUI-IID designation fund. There is hereby created in the state treasury the DUI-IID designation fund. All moneys credited to the DUI-IID designation fund shall be used by the department of revenue only for the purpose of funding the administration and oversight of state certified ignition interlock manufacturers and their service providers.

Sec. 18. K.S.A. 2015 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to: (1) Appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed; or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) (1) In addition to penalties of law applicable under subsection (a),

when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of $5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(2) (A) In lieu of suspension under paragraph (1), the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable $25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund.

(B) A person whose driver's license has expired during the period when such person's driver's license has been suspended for failure to pay fines for traffic citations, the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable $25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund. An individual shall not qualify for restricted driving privileges pursuant to this section unless the following conditions are met: (i) The suspended license that expired was issued by the division of vehicles; (ii) the suspended license resulted from

the individual's failure to comply with a traffic citation pursuant to subsection (b)(1); (iii) the traffic citation that resulted in the failure to comply pursuant to subsection (b)(1) was issued in this state; and (iv) the individual has not previously received a stayed suspension as a result of a driving while suspended conviction.

(C) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action. When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances: (i) In going to or returning from the person's place of employment or schooling; (ii) in the course of the person's employment; (iii) in going to or returning from an appointment with a health care provider or during a medical emergency; and (iv) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of $59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued and regardless of any application for restricted driving privileges. Such reinstatement fee shall be in addition to any fine, restricted driving privilege application fee, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile *alternatives to* detention ~~facilities~~ fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2015 Supp. 20-1a15, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(e) Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2015, through June 30, 2017, the supreme court may impose an additional charge, not to exceed $22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 19. K.S.A. 12-4112 is hereby amended to read as follows: 12-4112. No person shall be assessed costs for the administration of justice in any municipal court case, except for witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto; for the assessment required by K.S.A. ~~2001~~ *2015* Supp. 20-1a11, and amendments thereto; for the judicial branch education fund; for the assessment required by K.S.A. 12-4117, and amendments thereto, for the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, and the juvenile *alternatives to* detention ~~facilities~~ fund as provided in K.S.A. 12-4117, and amendments thereto; and for the assessment required by K.S.A. 12-16,119, and amendments thereto, for the detention facility processing fee.

Sec. 20. K.S.A. 2015 Supp. 12-4117 is hereby amended to read as follows: 12-4117. (a) In each case filed in municipal court other than a nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an amount of $20 shall be assessed and such assessment shall be credited as

follows:

One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, $11.50 to the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, $2.50 to the Kansas commission on peace officers' standards and training fund established by K.S.A. 74-5619, and amendments thereto, $2 to the juvenile *alternatives to* detention ~~facilities~~ fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, $.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, $.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto, $1 to the trauma fund established pursuant to K.S.A. 2015 Supp. 75-5670, and amendments thereto, and $1 to the department of corrections forensic psychologist fund established pursuant to K.S.A. 2015 Supp. 75-52,151, and amendments thereto.

(b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the local law enforcement training reimbursement fund, the law enforcement training center fund, the Kansas commission on peace officers' standards and training fund, the juvenile *alternatives to* detention ~~facilities~~ fund, the crime victims assistance fund, the trauma fund and the department of corrections forensic psychologist fund as provided in this section.

(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.

Sec. 21. K.S.A. 20-167 is hereby amended to read as follows: 20-167. ~~On and after July 1, 1997:~~ (a) The supreme court may establish a supervision fee schedule to be charged *to* a juvenile offender, or the parent or guardian of such juvenile offender, if the juvenile offender is under the age of 18, for services rendered *to* the juvenile who is:

(1) Placed on probation;

(2) placed in juvenile community correctional services;

(3) placed in a community placement;

(4) placed on conditional release pursuant to K.S.A. ~~2007~~ *2015* Supp. 38-2374, and amendments thereto; or

(5) using any other juvenile justice program available in the judicial district.

(b) The supervision fee established by this section shall be charged and collected by the clerk of the district court.

(c) All moneys collected by this section shall be paid into the county general fund and used to fund community juvenile justice programs.

(d) ~~The juvenile offender shall not be eligible for early release from supervision unless the supervision fee has been paid.~~

~~(e)~~ An annual report shall be filed with the ~~commissioner of juvenile justice~~ *secretary of corrections* from every judicial district concerning the supervision fees. The report shall include figures concerning: (1) The amount of supervision fees ordered to be paid; (2) the amount of supervision fees actually paid; and (3) the amount of expenditures and to whom such expenditures were paid.

~~(f)~~ *(e)* The court may waive all or part of the supervision fee established by this section upon a showing that such fee will result in an undue hardship to such juvenile offender or the parent or guardian of such juvenile offender.

Sec. 22. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2015 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-

8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2015 Supp. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2015 Supp. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 2015 Supp. 21-6301(a)(14), and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2015 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Civil custody case" includes any case filed under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11, of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2015 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(i) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most

recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(j) "Educational institution" means all schools at the elementary and secondary levels.

(k) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in K.S.A. 72-89b03(a), and amendments thereto.

(l) "Harm" means physical or psychological injury or damage.

(m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2015 Supp. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(o) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(p) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(q) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(r) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(s) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2015 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(t) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 2015 Supp. 38-2217(a)(2), and amendments thereto.

(u) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(v) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(w) "Permanency goal" means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(x) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2015 Supp. 38-2272, and amendments thereto.

(y) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

(z) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(aa) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(bb) "Secretary" means the secretary of the department for children

and families or the secretary's designee.

(cc) "Secure facility" means a facility, other than a staff secure facility *or juvenile detention facility* which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(dd) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in the sale of sexual relations or commercial sexual exploitation of a child, or to be photographed, filmed or depicted in pornographic material. Sexual abuse also shall include allowing, permitting or encouraging a child to engage in aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another.

(ee) "Shelter facility" means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ff) "Staff secure facility" means a facility described in K.S.A. 2015 Supp. 65-535, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

(gg) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

(hh) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes

Annotated, and amendments thereto. *Youth residential facilities shall maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case.*

Sec. 23. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2232 is hereby amended to read as follows: 38-2232. (a) (1) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall ~~forthwith~~ *promptly* be delivered to the custody of the child'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.

(2) Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall ~~forthwith~~ *promptly* be delivered to a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary.

(3) If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to ~~subsection (d)(9) or (d)(10) of~~ K.S.A. 2015 Supp. 38-2202*(d)(9) or (d)(10)*, and amendments thereto, the law enforcement officer shall deliver the child to a ~~juvenile detention facility or other~~ secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(4) No child taken into custody pursuant to this code shall be placed in a ~~juvenile detention facility or other~~ secure facility, except as authorized by this section and by K.S.A. 2015 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

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

(b) (1) When any law enforcement officer takes into custody any child as provided in ~~subsection (b)(2) of~~ K.S.A. 2015 Supp. 38-2231*(b)(2)*, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et

seq., and amendments thereto, or K.S.A. 2015 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(2) When any law enforcement officer takes into custody any child as provided in ~~subsection (b)(3) of~~ K.S.A. 2015 Supp. 38-2231*(b)(3)*, and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a ~~juvenile detention facility or other~~ secure facility, except as authorized by this section and by K.S.A. 2015 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

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

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

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

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

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

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

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

(g) When any law enforcement officer takes into custody any child as provided in ~~subsection (d) of~~ K.S.A. 2015 Supp. 38-2231*(d)*, and amendments thereto, the child shall ~~forthwith~~ *promptly* be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

Sec. 24. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a) The court, upon verified application, may issue ex parte an order directing that a child be held in protective custody and, if the child has not been taken into custody, an order directing that the child be taken into custody. The application shall state for each child:

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

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

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

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

(b) (1) The order of protective custody may be issued only after the court has determined there is probable cause to believe the allegations in the application are true. The order shall remain in effect until the temporary custody hearing provided for in K.S.A. 2015 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

(2) No child shall be held in protective custody for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless within the 72-hour period a determination is made as to the necessity for temporary custody in a temporary custody hearing. The time spent in custody pursuant to K.S.A. 2015 Supp. 38-2232, and amendments thereto, shall be included in calculating the 72-hour period. Nothing in this subsection shall be construed to mean that the child must remain in protective custody for 72 hours. If a child is in the protective custody of the secretary, the secretary shall allow at least one supervised visit between the child and the parent or parents within such time period as the child is in protective custody. The court may prohibit such supervised visit if the court determines it is not in the best interest of the child.

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

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

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

(C) a youth residential facility;

(D) a shelter facility;

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto; or

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

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the protective custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the protective custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to ~~subsection (d)(9) or (d)(10) of~~ K.S.A. 2015 Supp. 38-2202*(d)(9) or (d)(10)*, and amendments thereto, the child may be placed in a ~~juvenile detention facility or other~~ secure facility pursuant to an order of protective custody for a period of not to exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(d) The order of protective custody shall be served pursuant to ~~subsection (a) of~~ K.S.A. 2015 Supp. 38-2237*(a)*, and amendments thereto, on the child's parents and any other person having legal custody of the child. The order shall prohibit the removal of the child from the court's jurisdiction without the court's permission.

(e) If the court issues an order of protective custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual,

mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to ~~subsection (a) of~~ K.S.A. 2015 Supp. 38-2237*(a)*, and amendments thereto, on any alleged perpetrator to whom the order is directed.

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

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

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

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

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

Sec. 25. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

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

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

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

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

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely to be available within the jurisdiction of the court for future proceedings; (3) health or welfare of the child may be endangered without further care; (4) child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto; or (5) child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto.

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

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

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

(C) a youth residential facility;

(D) a shelter facility;

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto; or

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

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary

custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to ~~subsection (d)(9) or (d)(10) of~~ K.S.A. 2015 Supp. 38-2202*(d)(9) or (d)(10)*, and amendments thereto, the child may be placed in a ~~juvenile detention facility or other~~ secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 2015 Supp. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to ~~subsection (a) of~~ K.S.A. 2015 Supp. 38-2237*(a)*, and amendments thereto, on any alleged perpetrator to whom the order is directed.

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

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

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

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

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

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 2015 Supp. 38-2277, and amendments thereto.

Sec. 26. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2260 is hereby amended to read as follows: 38-2260. (a) *Valid court order.* During proceedings under this code, the court may enter an order directing a child who is the subject of the proceedings to remain in a present or future placement if:

(1) The child and the child's guardian ad litem are present in court when the order is entered;

(2) the court finds that the child has been adjudicated a child in need of care pursuant to ~~subsections (d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or (d)(12) of~~ K.S.A. 2015 Supp. 38-2202*(d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or (d)(12)*, and amendments thereto, and that the child is not likely to be available within the jurisdiction of the court for future proceedings;

(3) the child and the guardian ad litem receive oral and written notice of the consequences of violation of the order; and

(4) a copy of the written notice is filed in the official case file.

(b) *Application.* Any person may file a verified application for determination that a child has violated an order entered pursuant to subsection (a) and for an order authorizing holding the child in a secure facility~~ or juvenile detention facility~~. The application shall state the applicant's belief that the child has violated the order entered pursuant to subsection (a) without good cause and the specific facts supporting the allegation.

(c) *Ex parte order.* After reviewing the application filed pursuant to subsection (b), the court may enter an ex parte order directing that the child be taken into custody and held in a secure facility~~ or juvenile detention facility~~ designated by the court, if the court finds probable cause that the child violated the court's order to remain in placement without good cause. Pursuant to K.S.A. 2015 Supp. 38-2237, and amendments thereto, the order shall be served on the child's parents, the child's legal custodian and the child's guardian ad litem.

(d) *Preliminary hearing.* Within 24 hours following a child's being taken into custody pursuant to an order issued under subsection (c), the court shall hold a preliminary hearing to determine whether the child admits or denies the allegations of the application and, if the child denies the allegations, to determine whether probable cause exists to support the allegations.

(1) Notice of the time and place of the preliminary hearing shall be given orally or in writing to the child's parents, the child's legal custodian and the child's guardian ad litem.

(2) At the hearing, the child shall have the right to a guardian ad litem and shall be served with a copy of the application.

(3) If the child admits the allegations or enters a no contest statement and if the court finds that the admission or no contest statement is knowledgeable and voluntary, the court shall proceed without delay to the placement hearing pursuant to subsection (f).

(4) If the child denies the allegations, the court shall determine whether probable cause exists to hold the child in a secure facility ~~or juvenile detention facility~~ pending an evidentiary hearing pursuant to subsection (e). After hearing the evidence, if the court finds that: (A) There is probable cause to believe that the child has violated an order entered pursuant to subsection (a) without good cause; and (B) placement in a secure facility ~~or juvenile detention facility~~ is necessary for the protection of the child or to assure the presence of the child at the evidentiary hearing pursuant to subsection (e), the court may order the child held in a secure facility ~~or juvenile detention facility~~ pending the evidentiary hearing.

(e) *Evidentiary hearing.* The court shall hold an evidentiary hearing on an application within 72 hours of the child's being taken into custody. Notice of the time and place of the hearing shall be given orally or in writing to the child's parents, the child's legal custodian and the child's guardian ad litem. At the evidentiary hearing, the court shall determine by a clear and convincing evidence whether the child has:

(1) Violated a court order entered pursuant to subsection (a) without good cause;

(2) been provided at the hearing with the rights enumerated in subsection (d)(2); and

(3) been informed of:

(A) The nature and consequences of the proceeding;

(B) the right to confront and cross-examine witnesses and present evidence;

(C) the right to have a transcript or recording of the proceedings; and

(D) the right to appeal.

(f) *Placement.* (1) If the child admits violating the order entered pursuant to subsection (a) or if, after an evidentiary hearing, the court finds that the child has violated such an order, the court shall immediately proceed to a placement hearing. The court may enter an order awarding custody of the child to:

(A) A parent or other legal custodian;

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

(C) a youth residential facility; or

(D) the secretary, if the secretary does not already have legal custody

of the child.

(2) The court may authorize the custodian to place the child in a secure facility ~~or juvenile detention facility~~, if the court determines that all other placement options have been exhausted or are inappropriate, based upon a written report submitted by the secretary, if the child is in the secretary's custody, or submitted by a public agency independent of the court and law enforcement, if the child is in the custody of someone other than the secretary. The report shall detail the behavior of the child and the circumstances under which the child was brought before the court and made subject to the order entered pursuant to subsection (a).

(3) The authorization to place the child in a secure facility ~~or juvenile detention facility~~ pursuant to this subsection shall expire 60 days, inclusive of weekend and legal holidays, after its issue. The court may grant extensions of such authorization for two additional periods, each not to exceed 60 days, upon rehearing pursuant to K.S.A. 2015 Supp. 38-2256, and amendments thereto.

(g) *Payment.* The secretary shall only pay for placement and services for a child placed in a secure facility ~~or juvenile detention facility~~ pursuant to subsection (f) upon receipt of a valid court order authorizing secure care placement.

(h) *Limitations on facilities used.* Nothing in this section shall authorize placement of a child in an adult jail or lockup.

(i) *Time limits, computation.* Except as otherwise specifically provided by subsection (f), Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible shall not be counted in computing any time limit imposed by this section.

Sec. 27. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2288 is hereby amended to read as follows: 38-2288. (a) Notwithstanding any other provision of law, no child alleged or found to be a child in need of care may be placed in a juvenile detention facility unless~~:~~

~~(1) Such placement is necessary to protect the safety of the child and is authorized by subsection (b) of K.S.A. 2015 Supp. 38-2232, and amendments thereto, or K.S.A. 2015 Supp. 38-2242, 38-2243 or 38-2260, and amendments thereto; or~~

~~(2)~~ the child is also alleged to be a juvenile offender and such placement is authorized by K.S.A. 2015 Supp. 38-2330 or 38-2343, and amendments thereto.

(b) This section shall be part of and supplemental to the revised Kansas code for care of children.

Sec. 28. K.S.A. 2015 Supp. 38-2302 is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) "Commissioner" means the ~~commissioner of juvenile justice or~~

~~the commissioner's designee~~ *secretary of corrections*.

(b) *"Community supervision officer" means any officer from court services, community corrections or any other individual authorized to supervise a juvenile on an immediate intervention, probation or conditional release.*

(c) "Conditional release" means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, under conditions established by the ~~commissioner~~ *secretary of corrections*.

~~(c)~~*(d)* "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 2015 Supp. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2015 Supp. 38-2307, and amendments thereto, in a proceeding pursuant to this code.

~~(d)~~*(e) "Detention risk assessment tool" means a risk assessment instrument adopted pursuant to K.S.A. 75-7023(f), and amendments thereto, used to identify factors shown to be statistically related to a juvenile's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.*

(f) "Educational institution" means all schools at the elementary and secondary levels.

~~(e)~~*(g)* "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in ~~subsections (a)(1) through (5) of~~ K.S.A. 72-89b03*(a)(1) through (5)*, and amendments thereto.

(h) "Evidence-based" means practices, policies, procedures and programs demonstrated by research to produce reduction in the likelihood of reoffending.

(i) "Graduated responses" means a system of community-based sanctions and incentives developed pursuant to K.S.A. 75-7023(h) and section 2, and amendments thereto, used to address violations of immediate interventions, terms and conditions of probation and conditional release and to incentivize positive behavior.

(j) "Immediate intervention" means all programs or practices developed by the county to hold juvenile offenders accountable while allowing such offenders to be diverted from formal court processing pursuant to K.S.A . 2015 Supp. 38-2346, and amendments thereto.

~~(f)~~*(k)* "Institution" means the ~~following institutions: The Atchison juvenile correctional facility, the~~ Larned juvenile correctional facility and the Kansas juvenile correctional complex.

~~(g)~~*(l)* "Investigator" means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities

and juveniles in the custody of the commissioner at a juvenile correctional facility.

~~(h)~~*(m)* "Jail" means: (1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

~~(i)~~*(n)* "Juvenile" means a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.

~~(j)~~*(o)* "Juvenile correctional facility" means a facility operated by the ~~commissioner~~ *secretary of corrections* for the commitment of juvenile offenders.

~~(k)~~*(p)* "Juvenile corrections officer" means a certified employee of the ~~juvenile justice authority~~ *department of corrections* working at a juvenile correctional facility assigned by the ~~commissioner~~ *secretary of corrections* with responsibility for maintaining custody, security and control of juveniles in the custody of the ~~commissioner~~ *secretary of corrections* at a juvenile correctional facility.

~~(l)~~*(q)* "Juvenile detention facility" means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.

~~(m)~~*(r)* "Juvenile intake and assessment worker" means a responsible adult *trained and* authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

~~(n)~~*(s)* "Juvenile offender" means a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2015 Supp. 21-5102, and amendments thereto, or who violates the provisions of K.S.A. 41-727, ~~subsection (j) of~~ K.S.A. 74-8810*(j)* or ~~subsection (a)(14) of~~ K.S.A. 2015 Supp. 21-6301*(a)(14)*, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense,

as defined in ~~subsection (d) of~~ K.S.A. 8-2117*(d)*, and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(3) a person under 18 years of age who previously has been:

(A) Convicted as an adult under the Kansas criminal code;

(B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 2015 Supp. 38-2364, and amendments thereto; or

(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 2015 Supp. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.

~~(o)~~*(t)* "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(u) "Overall case length limit" when used in relation to a juvenile adjudicated a juvenile offender means the maximum jurisdiction of the court following disposition on an individual case. Pursuant to K.S.A. 2015 Supp. 38-2304, and amendments thereto, the case and the court's jurisdiction shall terminate once the overall case length limit expires and may not be extended.

~~(p)~~*(v)* "Parent" when used in relation to a juvenile, includes a guardian and every person who is, by law, liable to maintain, care for or support the juvenile.

(w) "Probation" means a period of community supervision ordered pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, overseen by either court services or community corrections, but not both.

(x) "Reintegration plan" means a written document prepared in consultation with the child's parent or guardian that:

(1) Describes the reintegration goal, which, if achieved, will most likely give the juvenile and the victim of the juvenile a permanent and safe living arrangement;

(2) describes the child's level of physical health, mental and emotional health and educational functioning;

(3) provides an assessment of the needs of the child and family;

(4) describes the services to be provided to the child, the child's family and the child's foster parents, if appropriate;

(5) includes a description of the tasks and responsibilities designed to achieve the plan and to whom assigned;

(6) includes measurable objectives and time schedules for achieving the plan; and

(7) if the child is in an out of home placement:

(A) Provides a statement for the basis of determining that reintegration is determined not to be a viable option if such a determination is made and includes a plan for another permanent living arrangement;

(B) describes available alternatives;

(C) justifies the alternative placement selected, including a description of the safety and appropriateness of such placement; and

(D) describes the programs and services that will help the child prepare to live independently as an adult.

~~(q)~~*(y)* "Risk *and needs* assessment ~~tool~~" means ~~an~~ *a standardized* instrument administered ~~to~~ *on* juveniles ~~which delivers a score, or group of scores, describing, but not limited to describing, the juvenile's potential risk to the community~~ *to identify specific risk factors and needs shown to be statistically related to a juvenile's risk of reoffending and, when properly addressed, can reduce a juvenile's risk of reoffending*.

~~(r) "Sanctions house" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control the behavior of its residents. Upon an order from the court, a licensed juvenile detention facility may serve as a sanctions house.~~

~~(s)~~*(z) "Secretary" means the secretary of corrections or the secretary's designee.*

(aa) "Technical violation" means an act that violates the terms or conditions imposed as part of a probation disposition pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, and that does not constitute a new juvenile offense or a new child in need of care violation pursuant to K.S.A.2015 Supp. 38-2202(d), and amendments thereto.

(bb) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

~~(t)~~ *(cc)* "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto. *The provisions of this subsection shall expire on July 1, 2018.*

Sec. 29. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2304 is hereby amended to read as follows: 38-2304. (a) Except as provided in K.S.A. 2015 Supp. 38-2347, and amendments thereto, proceedings concerning a juvenile shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and

determine proceedings under this code.

(c) When a complaint is filed under this code, the juvenile shall be presumed to be subject to this code, unless the contrary is proved.

(d) Once jurisdiction is acquired by the district court over an alleged juvenile offender, except as otherwise provided in subsection (e), jurisdiction shall continue until one of the following occurs:

(1) The complaint is dismissed;

(2) the juvenile is adjudicated not guilty at trial;

(3) the juvenile, after being adjudicated guilty and sentenced:

(i) Successfully completes the term of probation ~~or order of assignment to community corrections~~;

(ii) is discharged by the ~~commissioner~~ *secretary* pursuant to K.S.A. 2015 Supp. 38-2376, and amendments thereto;

(iii) reaches the juvenile's 21st birthday and no exceptions apply that extend jurisdiction beyond age 21; *or*

(iv) reaches the overall case length limit;

(4) the court terminates jurisdiction; or

(5) the ~~offender is convicted of a new felony while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2015 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony~~ *juvenile is convicted of a crime as an adult pursuant to chapter 22 of the Kansas Statutes Annotated, and amendments thereto*.

(e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it shall continue beyond the juvenile offender's 21st birthday but no later than the juvenile offender's 23rd birthday if ~~either or both of the following conditions apply~~:

(1) The juvenile offender is sentenced pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, and the term of the sentence including successful completion of ~~aftercare~~ *conditional release* extends beyond the juvenile offender's 21st birthday *but does not extend beyond the overall case length limit*; or

(2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile prosecution and continues to successfully serve the sentence imposed pursuant to the revised Kansas juvenile justice code.

(f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile offender's continuing responsibility to pay restitution ordered.

(g) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the secretary for children and families under the Kansas code for care of children, the sentencing court may order the continued placement of the juvenile offender as a child in need of care

~~unless the offender was adjudicated for a felony or a second or subsequent misdemeanor~~. *In such case, the secretary for children and families shall address issues of abuse and neglect by parents and prepare parents for the child's return home.*

(2) Court services, community corrections and the department of corrections shall address the risks and needs of the juvenile offender according to the results of the risk and needs assessment. ~~If the adjudication was for a felony or a second or subsequent misdemeanor, the continued placement cannot be ordered unless the court finds there are compelling circumstances which, in the best interest of the juvenile offender, require that the placement should be continued. In considering whether compelling circumstances exist, the court shall consider the reports and recommendations of the foster placement, the contract provider, the secretary for children and families, the presentence investigation and all other relevant factors. If the foster placement refuses to continue the juvenile in the foster placement the court shall not order continued placement as a child in need of care.~~

~~(2) If a placement with the secretary for children and families is continued after sentencing, the secretary shall not be responsible for any costs of sanctions imposed under this code.~~

(3) If the juvenile offender is placed in the custody of the ~~juvenile justice authority~~ *secretary of corrections*, the secretary for children and families shall ~~not~~ be responsible for ~~furnishing~~ *collaborating with the department of corrections to furnish* services ordered in the child in need of care proceeding during the time of the placement pursuant to the revised Kansas juvenile justice code. Nothing in this subsection shall preclude the juvenile offender from accessing ~~other~~ services provided by the Kansas department for children and families or any other state agency if the juvenile offender is otherwise eligible for the services.

(h) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a proceeding under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, a proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, a proceeding under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or a comparable case in another jurisdiction, except as provided by K.S.A. 2015 Supp. 23-37,101 et seq., and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 30. K.S.A. 2015 Supp. 38-2313 is hereby amended to read as follows: 38-2313. (a) Fingerprints or photographs shall not be taken of any

juvenile who is taken into custody for any purpose, except that:

(1) Fingerprints or photographs of a juvenile may be taken if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, immediately upon taking the juvenile into custody or upon first appearance or in any event before final sentencing, before the court for an offense which, if committed by an adult, would constitute the commission of a felony, a class A or B misdemeanor or assault, as defined in ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5412*(a)*, and amendments thereto;

(3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501, and amendments thereto, if the juvenile has been: (A) Prosecuted as an adult pursuant to K.S.A. 2015 Supp. 38-2347, and amendments thereto; or (B) taken into custody for an offense described in ~~subsection (n)(1) or (n)(2) of~~ K.S.A. 2015 Supp. 38-2302*(s)(1) or (s)(2)*, and amendments thereto;

(4) fingerprints or photographs shall be taken of any juvenile admitted to a juvenile correctional facility; and

(5) photographs may be taken of any juvenile placed in a juvenile detention facility. Photographs taken under this paragraph shall be used solely by the juvenile detention facility for the purposes of identification, security and protection and shall not be disseminated to any other person or agency except after an escape and necessary to assist in apprehension.

(b) Fingerprints and photographs taken under subsection (a)(1) or (a)(2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsections (a)(3) and (a)(4) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

(1) Fingerprints and photographs may be sent to the state and federal repository if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall, and photographs of a juvenile may, be sent to the state and federal repository if taken under subsection (a)(2) or (a)(4); and

(3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 2015 Supp. 38-2325, and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of an alleged juvenile offender

taken under the provisions of ~~subsection (a)(2) of~~ K.S.A. 38-1611*(a)(2)*, prior to its repeal, may be sent to a state or federal repository on or before December 31, 2006.

(f) Any law enforcement agency that willfully fails to submit any fingerprints or photographs required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding $500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

(h) Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to be used in any action under the Kansas parentage act, K.S.A. 2015 Supp. 23-2201 et seq., and amendments thereto.

Sec. 31. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2325 is hereby amended to read as follows: 38-2325. As used in K.S.A. 2015 Supp. 38-2326, and amendments thereto, unless the context otherwise requires:

(a) "Central repository" has the meaning provided by K.S.A. 22-4701, and amendments thereto.

(b) "Director" means the director of the Kansas bureau of investigation.

(c) "Juvenile offender information" means data relating to juveniles alleged or adjudicated to be juvenile offenders and offenses committed or alleged to have been committed by juveniles in proceedings pursuant to the Kansas juvenile code, the Kansas juvenile justice code or the revised Kansas juvenile justice code*, including, but not limited to:*

(1) Data related to the use of detention risk assessment tool;

(2) individual level data for juveniles on probation;

(3) costs for juveniles on probation;

(4) individual level data regarding juvenile filings;

(5) risk and needs assessment override data;

(6) violation data for juveniles on probation; and

(7) the following information for juveniles who enter into an immediate intervention plan:

(A) The number of juvenile offenders who were diverted at the point of initial law enforcement contact by juvenile intake and assessment, by the county or district attorney before filing with the court and by the county or district attorney after filing with the court;

(B) the number of notice to appear citations issued and the number of

school-based notice to appear citations issued in each school district;

(C) new offense referrals to juvenile court or criminal court within three years of completion of an immediate intervention, release from court jurisdiction or release from agency custody;

(D) juvenile offender adjudications or child in need of care adjudications for a status offense or conviction by a criminal court within three years of completion of the immediate intervention, release from court jurisdiction or release from agency custody;

(E) the length of supervision for immediate interventions; and

(F) rates of immediate intervention completions and failures, including the reasons for such failures.

(d) "Juvenile justice agency" means any county or district attorney, law enforcement agency of this state or of any political subdivision of this state, court of this state or of a municipality of this state, administrative agency of this state or any political subdivision of this state, juvenile correctional facility or juvenile detention facility.

(e) "Reportable event" means:

(1) Issuance of a warrant to take a juvenile into custody;

(2) taking a juvenile into custody pursuant to this code;

(3) release of a juvenile who has been taken into custody pursuant to this code, without the filing of a complaint;

(4) dismissal of a complaint filed pursuant to this code;

(5) a trial in a proceeding pursuant to this code;

(6) a sentence in a proceeding pursuant to this code;

(7) commitment to or placement in a ~~youth residential facility,~~ juvenile detention facility or juvenile correctional facility pursuant to this code;

(8) release or discharge from commitment or jurisdiction of the court pursuant to this code;

(9) escaping from commitment or absconding from placement pursuant to this code;

(10) entry of a mandate of an appellate court that reverses the decision of the trial court relating to a reportable event;

(11) an order authorizing prosecution as an adult;

(12) the issuance of an intake and assessment report;

(13) the report from a reception and diagnostic center; or

(14) any other event arising out of or occurring during the course of proceedings pursuant to this code and declared to be reportable by rules and regulations of the director.

Sec. 32. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2330 is hereby amended to read as follows: 38-2330. (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~~; or (3) there is probable cause to believe that the juvenile has violated a term of probation or placement.~~

(c) Any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may ~~arrest a juvenile without a warrant or may~~ request ~~any other officer with power of arrest to arrest a juvenile without~~ a warrant by giving ~~the officer~~ *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.* ~~The written statement delivered with the juvenile by the arresting officer to the official in charge of a juvenile detention facility or other place of detention shall be sufficient warrant for the detention of the juvenile.~~

(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 ~~an intake and assessment worker if an intake and assessment program exists in the jurisdiction, or before the court for proceedings in accordance with this code or, if the court is not open for the~~

~~regular conduct of business, to a court services officer, a juvenile intake and assessment worker, a juvenile detention facility or youth residential facility which the court or the commissioner shall have designated. The officer shall not take the juvenile to a juvenile detention facility unless the juvenile meets one or more of the criteria listed in subsection (b) of K.S.A. 2015 Supp. 38-2331, and amendments thereto. If the juvenile meets one or more of such criteria, the officer shall first consider whether taking the juvenile to an available nonsecure facility is more appropriate~~ *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 ~~have the authority to~~ direct the release prior to the time specified by ~~subsection (a) of~~ K.S.A. 2015 Supp. 38-2343*(a)*, and amendments thereto. In addition, ~~if an agreement is established~~ pursuant to K.S.A. *75-7023 and K.S.A.* 2015 Supp. 38-2346, and amendments thereto, a juvenile intake and assessment worker shall ~~have the authority to~~ direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process ~~if the juvenile intake and assessment worker has reason to believe that if released the juvenile will appear for further proceedings and will not be dangerous to self or others~~.

(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 ~~is~~

~~necessary~~, *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 officer 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 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) shall be provided to the juvenile in a single citation.

Sec. 33. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2331 is hereby amended to read as follows: 38-2331. (a) ~~If no prior order~~

~~removing a juvenile from the juvenile's home pursuant to K.S.A. 2015 Supp. 38-2334 or 38-2335, and amendments thereto, has been made~~, The court shall not enter an order removing a juvenile from the custody of a parent pursuant to this section unless the court first finds ~~probable cause~~ that *a detention risk assessment conducted pursuant to K.S.A. 75-7023(d), and amendments thereto, has assessed the juvenile as detention-eligible or there are grounds to override the results of a detention risk assessment tool and the court finds probable cause that*:

~~(1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;~~

~~(B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile; or~~

~~(C) immediate placement of the juvenile is in the juvenile's best interest; and~~

~~(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall state the basis for each finding in writing.~~

~~(b) Except as provided in subsection (c), a juvenile may be placed in a juvenile detention facility pursuant to subsection (c) or (d) of K.S.A. 2015 Supp. 38-2330 or subsection (e) of K.S.A. 2015 Supp. 38-2343, and amendments thereto, if one or more of the following conditions are met:~~

~~(1) There is oral or written verification that the juvenile is a fugitive sought for an offense in another jurisdiction, that the juvenile is currently an escapee from a juvenile detention facility or that the juvenile has absconded from a placement that is court ordered or designated by the juvenile justice authority.~~

~~(2) There is probable cause to believe that the juvenile has committed an offense which if committed by an adult would constitute a felony or any crime described in article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-6419 through 21-6421, and amendments thereto.~~

~~(3) The juvenile has been adjudicated for a nonstatus offense and is awaiting final court action on that offense.~~

~~(4) The juvenile has a record of failure to appear in court or there is probable cause to believe that the juvenile will flee the jurisdiction of the court.~~

~~(5) The juvenile has a history of violent behavior toward others.~~

~~(6) The juvenile exhibited seriously assaultive or destructive behavior or self-destructive behavior at the time of being taken into custody.~~

~~(7) The juvenile has a record of adjudication or conviction of one or more offenses which if committed by an adult would constitute a felony.~~

~~(8) The juvenile is a juvenile offender who has been expelled from~~

~~placement in a nonsecure facility as a result of the current alleged offense.~~

~~(9) The juvenile has been taken into custody by any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code pursuant to subsection (b) of K.S.A. 2015 Supp. 38-2330, and amendments thereto.~~

~~(10) The juvenile has violated probation or conditions of release.~~

(1) Community-based alternatives to detention are insufficient to:

(A) Secure the presence of the juvenile at the next hearing as evidenced by a demonstrable record of recent failures to appear at juvenile court proceedings and an exhaustion of detention alternatives; or

(B) protect the physical safety of another person or property from serious threat if the juvenile is not detained; and

(2) The court shall state the basis for each finding in writing.

(b) Community-based alternatives to detention shall include, but not be limited to:

(1) Release on the youth's promise to appear;

(2) release to a parent, guardian or custodian upon the youth's assurance to secure such youth's appearance;

(3) release with the imposition of reasonable restrictions on activities, associations, movements and residence specifically related to securing the youth's appearance at the next court hearing;

(4) release to a voluntary community supervision program;

(5) release to a mandatory, court-ordered community supervision program;

(6) release with mandatory participation in an electronic monitoring program with minimal restrictions on the youth's movement; or

(7) release with mandatory participation in an electronic monitoring program allowing the youth to leave home only to attend school, work, court hearings or other court-approved activities.

(c) No juvenile shall be placed in a juvenile detention center solely due to:

(1) A lack of supervision alternatives or service options;

(2) a parent avoiding legal responsibility;

(3) a risk of self-harm;

(4) contempt of court;

(5) a violation of a valid court order; or

(6) technical violations of conditional release unless there is probable cause that the juvenile poses a significant risk of harm to others or damage to property or the applicable graduated responses or sanctions protocol allows such placement.

~~(c)~~*(d)* No person 18 years of age or more shall be placed in a juvenile detention center.

Sec. 34. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2332 is

hereby amended to read as follows: 38-2332. (a) No juvenile shall be detained or placed in any jail pursuant to the revised Kansas juvenile justice code except as provided by subsections (b), (c) and (d) *and subject to K.S.A. 2015 Supp. 38-2330 and 38-2331, and amendments thereto*.

(b) Upon being taken into custody, a juvenile may be detained temporarily in a jail, in quarters with sight and sound separation from adult prisoners, for the purpose of identifying and processing the juvenile and transferring the juvenile to a ~~youth residential facility or~~ juvenile detention facility. If a juvenile is detained in jail under this subsection, the juvenile shall be detained only for the minimum time necessary, not to exceed six hours, and in no case overnight.

(c) The provisions of this section shall not apply to detention of a juvenile:

(1) (A) Against whom a motion has been filed requesting prosecution as an adult pursuant to ~~subsection (a)(2) of~~ K.S.A. 2015 Supp. 38-2347*(a)(2)*, and amendments thereto; and (B) who has received the benefit of a detention hearing pursuant to K.S.A. 2015 Supp. 38-2331, and amendments thereto;

(2) whose prosecution as an adult or classification as an extended jurisdiction juvenile has been authorized pursuant to K.S.A. 2015 Supp. 38-2347, and amendments thereto; or

(3) who has been convicted previously as an adult under the code of criminal procedure or the criminal laws of another state or foreign jurisdiction.

(d) The provisions of this section shall not apply to the detention of any person 18 years of age or more who is taken into custody and is being prosecuted in accordance with the provisions of the revised Kansas juvenile justice code.

(e) The ~~Kansas juvenile justice authority or the authority's~~ *department of corrections or the department's* contractor shall have authority to review jail records to determine compliance with the provisions of this section.

Sec. 35. 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 ~~or placement~~ *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.

Sec. 36. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2343 is hereby amended to read as follows: 38-2343. (a) *Basis for extended detention; findings and placement.* Whenever a juvenile is taken into custody, the juvenile shall not remain in detention for more than 48 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, from the time the initial detention was imposed, unless the court determines after hearing, within the 48-hour period, that further detention ~~is necessary because detention~~ is warranted ~~in light of all relevant factors, including, but not limited to,~~ *based on* the criteria ~~listed~~ in K.S.A. 2015 Supp. 38-2331, and amendments thereto~~, and the juvenile is dangerous to self or others or is not likely to appear for further proceedings~~.

(b) (1) If the juvenile is in custody on the basis of a new offense which would be a felony or misdemeanor if committed by an adult and no prior judicial determination of probable cause has been made, the court shall determine whether there is probable cause to believe that the juvenile has committed the alleged offense.

~~(2) If the court finds the juvenile is dangerous to self or others, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate.~~

~~(3) If the court finds the juvenile is not likely to appear for further proceedings, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate or may be released upon the giving of an appearance bond in an amount specified by the court and on the conditions the court may impose, in accordance with the applicable provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.~~

~~(4)~~*(2)* In the absence of the necessary findings, the court shall order the juvenile released ~~or placed in temporary custody as provided in subsection (g)~~.

~~(b)~~*(c) Waiver of detention hearing.* The detention hearing may be waived in writing by the juvenile and the juvenile's attorney with approval of the court. The right to a detention hearing may be reasserted in writing by the juvenile or the juvenile's attorney or parent at anytime not less than 48 hours prior to trial.

~~(c)~~*(d) Notice of hearing.* Whenever it is determined that a detention hearing is required the court shall immediately set the time and place for the hearing. Except as otherwise provided by ~~subsection (c)(1) of~~ K.S.A. 2015 Supp. 38-2332*(c)(1)*, and amendments thereto, notice of the detention hearing shall be given at least 24 hours prior to the hearing, unless waived.

When there is insufficient time to give written notice, oral notice may be given and is completed upon filing a certificate of oral notice with the clerk.

~~(d)~~*(e) Attorney for juvenile.* At the time set for the detention hearing if no retained attorney is present to represent the juvenile, the court shall appoint an attorney, and may recess the hearing for 24 hours, excluding Saturdays, Sundays and legal holidays, to obtain attendance of the attorney appointed.

~~(e)~~*(f) Hearing. (1)* The detention hearing is an informal procedure to which the ordinary rules of evidence do not apply. The court may consider affidavits, *detention risk assessment tool results,* professional reports and representations of counsel to make the necessary findings, if the court determines that these materials are sufficiently reliable.

(2) If probable cause to believe that the juvenile has committed an alleged offense is contested, the court shall allow the opportunity to present contrary evidence or information upon request.

(3) If the court orders the juvenile to be detained in a juvenile detention facility, the court shall record the specific findings of fact upon which the order is based*, including any reasons for overriding a detention risk assessment tool score*.

~~(f)~~ *(g) Rehearing.* (1) If detention is ordered and the parent was not notified of the hearing and did not appear and later requests a rehearing, the court shall rehear the matter without unnecessary delay.

(2) Within 14 days of the detention hearing, if the juvenile had not previously presented evidence regarding the determination of probable cause to believe that the juvenile has committed an offense, the juvenile may request a rehearing to contest the determination of probable cause to believe that the juvenile has committed an offense. The rehearing request shall identify evidence or information that the juvenile could not reasonably produce at the detention hearing. If the court determines that the evidence or information could not reasonably be produced at the detention hearing, the court shall rehear the matter without unnecessary delay.

~~(g) *Temporary custody.* If the court determines that detention is not necessary but finds that release to the custody of a parent is not in the best interests of the juvenile, the court may place the juvenile in the temporary custody of some suitable person willing to accept temporary custody or the commissioner. Such finding shall be made in accordance with K.S.A. 2015 Supp. 38-2334 and 38-2335, and amendments thereto.~~

(h) *Audio-video communications.* Detention hearings may be conducted by two-way electronic audio-video communication between the juvenile and the judge in lieu of personal presence of the juvenile or the juvenile's attorney in the courtroom from any location within Kansas in the

discretion of the court. The juvenile may be accompanied by the juvenile's attorney during such proceedings or the juvenile's attorney may be personally present in court as long as a means of confidential communication between the juvenile and the juvenile's attorney is available.

(i) Review hearing. The court shall hold a detention review hearing every seven days that a juvenile is in detention to determine if the juvenile should continue to be held in detention.

Sec. 37. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2344 is hereby amended to read as follows: 38-2344. (a) When the juvenile appears without an attorney in response to a complaint, the court shall inform the juvenile of the following:

(1) The nature of the charges in the complaint;

(2) the right to hire an attorney of the juvenile's own choice;

(3) the duty of the court to appoint an attorney for the juvenile if no attorney is hired by the juvenile or parent; ~~and~~

(4) that the court may require the juvenile or parent to pay the expense of a court appointed attorney*; and*

(5) the right to be offered an immediate intervention pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto.

Upon request the court shall give the juvenile or parent an opportunity to hire an attorney. If no request is made or the juvenile or parent is financially unable to hire an attorney, the court shall ~~forthwith~~ *promptly* appoint an attorney for the juvenile. The court shall afford the juvenile an opportunity to confer with the attorney before requiring the juvenile to plead to the allegations of the complaint.

(b) When the juvenile appears with an attorney in response to a complaint, the court shall require the juvenile to plead guilty, nolo contendere or not guilty to the allegations stated in the complaint, unless there is an application for and approval of an immediate intervention program. Prior to making this requirement, the court shall inform the juvenile of the following:

(1) The nature of the charges in the complaint;

(2) the right of the juvenile to be presumed innocent of each charge;

(3) the right to jury trial without unnecessary delay;

(4) the right to confront and cross-examine witnesses appearing in support of the allegations of the complaint;

(5) the right to subpoena witnesses;

(6) the right of the juvenile to testify or to decline to testify; and

(7) the sentencing alternatives the court may select as the result of the juvenile being adjudicated a juvenile offender.

(c) If the juvenile pleads guilty to the allegations contained in a complaint or pleads nolo contendere, the court shall determine, before

accepting the plea and entering a sentence: (1) That there has been a voluntary waiver of the rights enumerated in subsections (b)(2), (3), (4), (5) and (6); and (2) that there is a factual basis for the plea.

(d) If the juvenile pleads not guilty, the court shall schedule a time and date for trial to the court.

(e) First appearance may be conducted by two-way electronic audio-video communication between the juvenile and the judge in lieu of personal presence of the juvenile or the juvenile's attorney in the courtroom from any location within Kansas in the discretion of the court. The juvenile may be accompanied by the juvenile's attorney during such proceedings or the juvenile's attorney may be personally present in court as long as a means of confidential communication between the juvenile and the juvenile's attorney is available.

Sec. 38. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2346 is hereby amended to read as follows: 38-2346. (a) ~~Except as provided in subsection (b),~~ Each *director of juvenile intake and assessment services in collaboration with the* county or district attorney ~~may~~ *shall* adopt a policy and establish guidelines for an immediate intervention ~~program~~ *process* by which a juvenile may avoid prosecution. *The guidelines may include information on any offenders beyond those enumerated in subsection (b)(1) that shall be referred to immediate intervention.* In addition to ~~the county or district attorney~~ *juvenile intake and assessment services* adopting policies and guidelines for the immediate intervention ~~programs~~ *process*, the court, the county or district attorney ~~and~~, the director of the intake and assessment center~~,~~ *and other relevant individuals or organizations,* pursuant to a written agreement, ~~may~~ *shall collaboratively* develop local programs to:

(1) Provide for the direct referral of cases *to immediate intervention programs* by the county or district attorney ~~or~~ *and* the intake and assessment worker~~, or both, to youth courts, restorative justice centers, hearing officers or other local programs as sanctioned by the court~~.

(2) Allow intake and assessment workers to issue a summons, as defined in subsection (e) ~~or~~ *and* if ~~the county or district attorney~~ *juvenile intake and assessment services* has adopted appropriate policies and guidelines, allow law enforcement officers to issue such a summons.

(3) Allow the intake and assessment centers *and other immediate intervention program providers* to directly purchase services for the juvenile and the juvenile's family.

(4) Allow intake and assessment workers to direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process ~~if the juvenile intake and assessment worker has reason to believe that if released the juvenile will appear for further proceedings and is not dangerous to self or others~~ *pursuant to K.S.A. 75-*

7023, and amendments thereto.

~~(b) An immediate intervention program shall provide that an alleged juvenile offender is ineligible for such program if the juvenile faces pending charges as a juvenile offender, for committing acts which, if committed by an adult, would constitute:~~

~~(1) A violation of K.S.A. 8-1567, and amendments thereto, and the juvenile: (A) Has previously participated in an immediate intervention program instead of prosecution of a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute; (B) has previously been adjudicated of a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or (C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury or death; or~~

~~(2) a violation of an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1 or 2 felony for drug crimes committed prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony for drug crimes committed on or after July 1, 2012.~~

~~(c) An immediate intervention program may include a stipulation, agreed to by the juvenile, the juvenile's attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the juvenile fails to fulfill the terms of the specific immediate intervention agreement and the immediate intervention proceedings are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts.~~

(b) (1) A juvenile who goes through the juvenile intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto, shall be offered the opportunity to participate in an immediate intervention program and avoid prosecution if the juvenile is charged with a misdemeanor or a violation of K.S.A. 2015 Supp. 21-5507, and amendments thereto, the juvenile has no prior adjudications, and the offer is made pursuant to the guidelines developed pursuant to this section.

(2) A juvenile may also participate in an immediate intervention program if the juvenile is referred for immediate intervention by the county or district attorney pursuant to subsection (d).

(3) Any juvenile referred to immediate intervention by juvenile intake and assessment services shall, upon acceptance, work together with court services, community corrections, juvenile intake and assessment services or any other entity designated as a part of the written agreement in subsection (a) to develop an immediate intervention plan. Such plan may be supervised or unsupervised.

(4) The immediate intervention plan shall last no longer than four

months from the date of referral, unless the plan requires the juvenile to complete a mental health or substance abuse program that extends beyond the four-month period. In such case, the plan may be extended up to two additional months.

(5) If the juvenile satisfactorily complies with the immediate intervention plan, such juvenile shall be discharged and the charges dismissed at the end of the time period specified in paragraph (4).

(6) If the juvenile fails to satisfactorily comply with the immediate intervention plan, the case shall be referred to a multidisciplinary team for review. The multidisciplinary team created pursuant to section 3, and amendments thereto, shall review the immediate intervention plan within seven days and may revise and extend such plan or terminate the case as successful. Such plan may be extended for no more than four additional months.

(7) If the juvenile fails to satisfactorily comply with the revised plan developed pursuant to paragraph (6), the intake and assessment worker, court services officer or community corrections officer overseeing the immediate intervention shall refer the case to the county or district attorney for consideration.

~~(d)~~*(c)* The~~ county or district attorney may require the~~ parent of a juvenile *may be required* to be a part of the immediate intervention program.

(d) For all juveniles that have fewer than two prior adjudications, the county or district attorney shall review the case upon receipt of a complaint to determine if the case should be referred for immediate intervention or whether alternative means of adjudication should be designated pursuant to K.S.A. 2015 Supp. 38-2389, and amendments thereto. The county or district attorney shall consider any recommendation of a juvenile intake and assessment worker, court services officer or community corrections officer.

(e) "Summons" means a written order issued by an intake and assessment worker or a law enforcement officer directing that a juvenile appear before a designated court at a stated time and place to answer a pending charge.

(f) ~~The provisions of this section shall not be applicable in judicial districts that adopt district court rules pursuant to K.S.A. 20-342, and amendments thereto, for the administration of immediate intervention programs by the district court.~~ *A juvenile who is eligible for an immediate intervention shall not be denied participation in such a program or terminated unsuccessfully due to an inability to pay fees or other associated costs. Fees assessed from such a program shall be retained by the program and shall not be used for any purpose, except development and operation of the program.*

(g) If a juvenile substantially complies with an immediate intervention program, charges in such juvenile's case shall not be filed.

(h) The policies and guidelines developed pursuant to subsection (a) shall adhere to standards and procedures for immediate intervention developed by the department of corrections pursuant to section 7, and amendments thereto, and be based on best practices.

Sec. 39. K.S.A. 2015 Supp. 38-2347 is hereby amended to read as follows: 38-2347. (a) (1) Except as otherwise provided in this section, at any time after commencement of proceedings under this code against a juvenile and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2015 Supp. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a motion requesting that the court authorize prosecution of the juvenile as an adult under the applicable criminal statute. The juvenile shall be presumed to be a juvenile ~~unless good cause is shown to prosecute the juvenile as an adult~~*, and the presumption must be rebutted by a preponderance of the evidence*. No juvenile less than ~~12~~ *14* years of age shall be prosecuted as an adult.

~~(2) The alleged juvenile offender shall be presumed to be an adult if the alleged juvenile offender was: (A) 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint, if any such offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an offense which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new act charged and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2015 Supp. 38-2356, and amendments thereto. If the juvenile is presumed to be an adult, the burden is on the juvenile to rebut the presumption by a preponderance of the evidence.~~

~~(3)~~ *(2)* At any time after commencement of proceedings under this code against a juvenile offender and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2015 Supp. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a

motion requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution.

~~(4) If the county or district attorney or the county or district attorney's designee files a motion to designate the proceedings as an extended jurisdiction juvenile prosecution and the juvenile was 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint and: (A) Charged with an offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than, one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an act which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new offense charged, the burden is on the juvenile to rebut the designation of an extended jurisdiction juvenile prosecution by a preponderance of the evidence. In all other motions requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution, the juvenile is presumed to be a juvenile. The burden of proof is on the prosecutor to prove the juvenile should be designated as an extended jurisdiction juvenile.~~

~~(b) The motion also may contain a statement that the prosecuting attorney will introduce evidence of the offenses alleged in the complaint and request that, on hearing the motion and authorizing prosecution as an adult or designating the proceedings as an extended jurisdiction juvenile prosecution under this code, the court may make the findings required in a preliminary examination provided for in K.S.A. 22-2902, and amendments thereto, and the finding that there is no necessity for further preliminary examination.~~

(3) If the county or district attorney or the county or district attorney's designee files a motion to designate the proceedings as an extended jurisdiction juvenile prosecution, the burden of proof is on the prosecutor to prove the juvenile should be designated as an extended jurisdiction juvenile.

~~(c)~~ *(b)* (1) Upon receiving the motion, the court shall set a time and place for hearing. The court shall give notice of the hearing to the juvenile, each parent, if service is possible, and the attorney representing the juvenile. The motion shall be heard and determined prior to any further proceedings on the complaint.

(2) At the hearing, the court shall inform the juvenile of the following:

(A) The nature of the charges in the complaint;

(B) the right of the juvenile to be presumed innocent of each charge;

(C) the right to trial without unnecessary delay and to confront and cross-examine witnesses appearing in support of the allegations of the complaint;

(D) the right to subpoena witnesses;

(E) the right of the juvenile to testify or to decline to testify; and

(F) the sentencing alternatives the court may select as the result of the juvenile being prosecuted under an extended jurisdiction juvenile prosecution.

~~(d)~~ *(c)* If the juvenile fails to appear for hearing on the motion after having been served with notice of the hearing, the court may hear and determine the motion in the absence of the juvenile. If the court is unable to obtain service of process and give notice of the hearing, the court may hear and determine the motion in the absence of the alleged juvenile offender after having given notice of the hearing at least once a week for two consecutive weeks in the official county newspaper of the county where the hearing will be held.

~~(e)~~ *(d)* In determining whether or not prosecution as an adult should be authorized or designating the proceeding as an extended jurisdiction juvenile prosecution, the court shall consider each of the following factors:

(1) The seriousness of the alleged offense and whether the protection of the community requires prosecution as an adult or designating the proceeding as an extended jurisdiction juvenile prosecution;

(2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

(3) whether the offense was against a person or against property. Greater weight shall be given to offenses against persons, especially if personal injury resulted;

(4) the number of alleged offenses unadjudicated and pending against the juvenile;

(5) the previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender under this code or the Kansas juvenile justice code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence;

(6) the sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living or desire to be treated as an adult;

(7) whether there are facilities or programs available to the court which are likely to rehabilitate the juvenile prior to the expiration of the

court's jurisdiction under this code; and

(8) whether the interests of the juvenile or of the community would be better served by criminal prosecution or extended jurisdiction juvenile prosecution.

The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection, in and of itself, shall not be determinative of the issue. Subject to the provisions of K.S.A. 2015 Supp. 38-2354, and amendments thereto, written reports and other materials relating to the juvenile's mental, physical, educational and social history may be considered by the court.

~~(f)~~ *(e)* (1) The court may authorize prosecution as an adult upon completion of the hearing if the court finds from a preponderance of the evidence that the alleged juvenile offender should be prosecuted as an adult for the offense charged. In that case, the court shall direct the alleged juvenile offender be prosecuted under the applicable criminal statute and that the proceedings filed under this code be dismissed.

(2) The court may designate the proceeding as an extended jurisdiction juvenile prosecution upon completion of the hearing if the juvenile has failed to rebut the presumption or the court finds from a preponderance of the evidence that the juvenile should be prosecuted under an extended jurisdiction juvenile prosecution.

(3) After a proceeding in which prosecution as an adult is requested pursuant to subsection (a)(2), and prosecution as an adult is not authorized, the court may designate the proceedings to be an extended jurisdiction juvenile prosecution.

(4) A juvenile who is the subject of an extended jurisdiction juvenile prosecution shall have the right to a trial by jury, to the effective assistance of counsel and to all other rights of a defendant pursuant to the Kansas code of criminal procedure. Each court shall adopt local rules to establish the basic procedures for extended jurisdiction juvenile prosecution in such court's jurisdiction.

~~(g) If the juvenile is present in court and the court also finds from the evidence that it appears a felony has been committed and that there is probable cause to believe the felony has been committed by the juvenile, the court may direct that there is no necessity for further preliminary examination on the charges as provided for in K.S.A. 22-2902, and amendments thereto. In that case, the court shall order the juvenile bound over to the district judge having jurisdiction to try the case.~~

~~(h) If the juvenile is convicted, the authorization for prosecution as an adult shall attach and apply to any future prosecutions of the juvenile which are or would be cognizable under this code. If the juvenile is not convicted, the authorization for prosecution as an adult shall not attach and shall not apply to future prosecutions of the juvenile which are or would be~~

~~cognizable under this code.~~

~~(i) If the juvenile is prosecuted as an adult under subsection (a)(2) and is not convicted in adult court of an offense listed in subsection (a)(2) but is convicted or adjudicated of a lesser included offense, the juvenile shall be a juvenile offender and receive a sentence pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto.~~

Sec. 40. K.S.A. 2015 Supp. 38-2360 is hereby amended to read as follows: 38-2360. (a) At any time after the juvenile has been adjudicated to be a juvenile offender, the court shall order one or more of the tools described in this subsection to be submitted to assist the court unless the court finds that adequate and current information *from a risk and needs assessment* is available from a previous investigation, report or other sources:

(1) An evaluation and written report by a mental health or a qualified professional stating the psychological or emotional development or needs of the juvenile. The court also may order a report from any mental health or qualified professional who has previously evaluated the juvenile stating the psychological or emotional development needs of the juvenile. If the court orders an evaluation as provided in this section, a parent of the juvenile shall have the right to obtain an independent evaluation at the expense of the parent. *If the evaluation indicates that the juvenile requires acute inpatient mental health or substance abuse treatment, the court shall have the authority to compel an assessment by the secretary for aging and disability services. The court may use the results to inform a treatment and payment plan according to the same eligibility process used for non-court-involved youth.*

(2) A report of the medical condition and needs of the juvenile. The court also may order a report from any physician who has been attending the juvenile, stating the diagnosis, condition and treatment afforded the juvenile.

(3) An educational needs assessment of the juvenile from the chief administrative officer of the school which the juvenile attends or attended to provide to the court information that is readily available which the school officials feel would properly indicate the educational needs of the juvenile. The educational needs assessment may include a meeting involving any of the following: (A) The juvenile's parents; (B) the juvenile's teacher or teachers; (C) the school psychologist; (D) a school special services representative; (E) a representative of the commissioner; (F) the juvenile's court appointed special advocate; (G) the juvenile's foster parents or legal guardian; and (H) other persons that the chief administrative officer of the school, or the officer's designee, deems appropriate.

(4) Any other presentence investigation and report from a court

services officer which includes: (A) The circumstances of the offense; (B) the attitude of the complainant, victim or the victim's family; (C) the record of juvenile offenses; (D) the social history of the juvenile; *and* (E) the present condition of the juvenile~~; and (F) a summary of the results from a standardized risk assessment tool or instrument~~. Except where specifically prohibited by law, all local governmental public and private educational institutions and state agencies shall furnish to the officer conducting the predispositional investigation the records the officer requests. Predispositional investigations shall contain other information prescribed by the court.

(5) The court in its discretion may direct that the parents submit a domestic relations affidavit.

(b) *A summary of the results from a risk and needs assessment shall be provided to the court post-adjudication, predisposition and used to inform supervision levels. A single, uniform risk and needs assessment shall be adopted by the office of judicial administration and the department of corrections to be used in all judicial districts. The office of judicial administration and the department of corrections shall establish cutoff scores determining risk levels of juveniles. Training on such risk and needs assessment shall be required for all administrators of the assessment. Data shall be collected on the results of the assessment to inform a validation study on the Kansas juvenile justice population to be conducted by June 30, 2020.*

(c) Expenses for post adjudication tools may be waived or assessed pursuant to~~ subsection (c)(2) of~~ K.S.A. 2015 Supp. 38-2314*(c)(2)*, and amendments thereto.

~~(c)~~ *(d)* Except as otherwise prohibited by law or policy, the court shall make any of the reports ordered pursuant to subsection (a) available to the attorneys and shall allow the attorneys a reasonable time to review the report before ordering the sentencing of the juvenile offender.

~~(d)~~ *(e)* At any time prior to sentencing, the judge, at the request of a party, shall hear additional evidence as to proposals for reasonable and appropriate sentencing of the case.

Sec. 41. 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~~,~~ ~~and subject to K.S.A. 2015 Supp. 38-2365(a), 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*. ~~In the event that any sentencing alternative chosen~~

~~constitutes an order authorizing or requiring removal of the juvenile from the juvenile's home and such findings either have not previously been made or the findings are not or may no longer be current, the court shall make determinations as required by K.S.A. 2015 Supp. 38-2334 and 38-2335, and amendments thereto.~~

(1) Place the juvenile on probation ~~through court services or community corrections~~ 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.*

(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 ~~(12) and when ordered with the alternative in paragraph (10) shall constitute a recommendation~~ *(11)*. 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 license 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 ~~(10) or (12)~~ *(11)*. 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 a 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 July 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 ~~a sanctions house~~ *detention* for a period no longer than ~~28~~ *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 a period of confinement in a juvenile correctional facility ~~and~~. *If the court elects,* a period of ~~aftercare~~ *conditional release* pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto*, may also be ordered*. ~~The provisions of K.S.A. 2015 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision, provided however, that 21~~ *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. ~~The court shall set and hold a permanency hearing pursuant to K.S.A. 2015 Supp. 38-2365, and amendments thereto, within seven days after the juvenile's release.~~ 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 complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the secretary of corrections or the department of corrections nor shall the fee be assessed against the secretary of the department for children and families or the Kansas department for children and families if the juvenile is in the secretary's care, custody and control.

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

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

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court

may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

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

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or

restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

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

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

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

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

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

(f) Before the court ~~places the juvenile in a detention center as part of probation or community corrections pursuant to subsection (a)(1), places the juvenile under a house arrest program pursuant to subsection (a)(9), places the juvenile in the custody of the secretary of corrections pursuant to subsection (a)(10), commits the juvenile to a sanctions house pursuant to subsection (a)(11) or commits the juvenile directly to the custody of the secretary of corrections for a period of confinement in a juvenile correctional facility pursuant to subsection (a)(12),~~ *sentences a juvenile offender pursuant to subsection (a),* the court shall administer a risk assessment tool, as described in K.S.A. 2015 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile *and use the results of that assessment to inform orders made pursuant to K.S.A. 2015 Supp. 38-2369 and section 1, and amendments thereto*.

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

(1) The court ~~may~~ *shall only* order commitment ~~for up to 28 days for the same offense or~~ *to detention upon* violation of sentencing ~~condition~~ *conditions where all other alternatives have been exhausted*.

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

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

(4) Cumulative detention use shall be limited to a maximum of 30 days over the course of a juvenile offender's case pursuant to section 1, and amendments thereto. The court shall review ~~the~~ *any detention* commitment every seven days and, may shorten the initial commitment or~~, if the initial term is less than 28 days, may~~ extend the commitment~~;~~. *In no case, however, may the term of detention or any extension thereof exceed the cumulative detention limit of 30 days or the overall case length limit.*

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

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

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

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

(j) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense that if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if the victim is

less than 14 years of age; (2) rape, as defined in K.S.A. 2015 Supp. 21-5503(a)(3), and amendments thereto; (3) aggravated indecent liberties with a child, as defined in K.S.A. 2015 Supp. 21-5506(b)(3), and amendments thereto; (4) aggravated criminal sodomy, as defined in K.S.A. 2015 Supp. 21-5504(b)(1) or (b)(2), and amendments thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age; or (7) 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 (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(k) *The court may order a short-term alternative placement of a juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic foster home or community integration program if:*

(1) Such juvenile has been adjudicated to be a juvenile offender for an offense that if committed by an adult would constitute the commission of:

(A) Aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age;

(B) a sex offense, as defined in K.S.A. 2015 Supp. 21-5503, and amendments thereto;

(C) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age;

(D) sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age; or

(E) 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 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.

(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.

Sec. 42. K.S.A. 2015 Supp. 38-2364 is hereby amended to read as follows: 38-2364. (a) If an extended jurisdiction juvenile prosecution results in a guilty plea or finding of guilt, the court shall:

(1) Impose one or more juvenile sentences under K.S.A. 2015 Supp. 38-2361, and amendments thereto; and

(2) impose an adult criminal sentence, the execution of which shall be stayed on the condition that the juvenile offender ~~not violate~~ *substantially comply with* the provisions of the juvenile sentence and not commit a new offense.

(b) When it appears that a person sentenced as an extended jurisdiction juvenile has violated one or more conditions of the juvenile sentence or is alleged to have committed a new offense, the court, ~~without notice, may revoke the stay and juvenile sentence and direct that the juvenile offender be immediately taken into custody and delivered to the secretary of corrections pursuant to K.S.A. 2015 Supp. 21-6712, and amendments thereto. The court~~ shall notify the juvenile offender and such juvenile offender's attorney of record, in writing by personal service, as provided in K.S.A. 60-303, and amendments thereto, or certified mail, return receipt requested, of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. ~~If the juvenile offender challenges the reasons,~~ The court shall hold a hearing on the issue at which the juvenile offender is entitled to be heard and represented by counsel. After the hearing, if the court finds by a preponderance of the evidence that the juvenile committed a new offense or violated one or more conditions of the juvenile's sentence, the court shall revoke the juvenile

sentence and order the imposition of the adult sentence previously ordered pursuant to subsection (a)(2) or, upon agreement of the county or district attorney and the juvenile offender's attorney of record, the court may modify the adult sentence previously ordered pursuant to subsection (a)(2). Upon such finding, the juvenile's extended jurisdiction status is terminated, and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than the commitment to the department of corrections, is with the adult court. The juvenile offender shall be credited for time served in a juvenile correctional or detention facility on the juvenile sentence as service on any authorized adult sanction.

(c) Upon becoming 18 years of age, any juvenile who has been sentenced pursuant to subsection (a) and is serving the juvenile sentence, may move for a court hearing to review the sentence. If the sentence is continued, the court shall set a date of further review in no later than 36 months.

Sec. 43. K.S.A. 2015 Supp. 38-2366 is hereby amended to read as follows: 38-2366. (a) When a juvenile offender who is:

(1) Under 16 years of age at the time of the sentencing, has been prosecuted and convicted as an adult or under the extended jurisdiction juvenile prosecution, and has been placed in the custody of the secretary of ~~the department of~~ corrections, the secretary shall notify the sheriff having the offender in custody to convey such juvenile offender at a time designated by the department of corrections to a juvenile correctional facility. The secretary shall notify the court, in writing, of the initial placement of the offender in the specific juvenile correctional facility as soon as the placement has been accomplished.

(2) At least 16 but less than 18 years of age at the time of sentencing, has been prosecuted and convicted as an adult or under the extended jurisdiction juvenile prosecution, and has been placed in the custody of the secretary, the secretary shall notify the sheriff having the offender in custody to convey such juvenile offender at a time designated by the department of corrections to a juvenile correctional facility or adult correctional institution. The secretary shall notify the court, in writing, of the initial placement of the offender in the specific juvenile correctional facility or adult correctional institution as soon as the placement has been accomplished.

The secretary shall not permit the juvenile offender to remain detained in any jail for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, after the secretary has received the written order of the court placing the offender in the custody of the secretary. If such placement cannot be accomplished, the offender may remain in jail for an additional period of time, not exceeding 10 days, which is specified by the secretary

and approved by the court.

(b) Except as provided in subsection (a), a juvenile who has been prosecuted and convicted as an adult shall not be eligible for admission to a juvenile correctional facility. All other conditions of the offender's sentence imposed under this code, including restitution orders, may remain intact.

Sec. 44. K.S.A. 2015 Supp. 38-2367 is hereby amended to read as follows: 38-2367. (a) At any time after the entry of an order of custody or placement of a juvenile offender, the court, upon the court's own motion or the motion of the ~~commissioner~~ *secretary of corrections* or parent or any party, may modify the sentence imposed. 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 and placement of the juvenile offender and to each party to the proceeding. Except as established in subsection (b), after the hearing, if the court finds that the sentence previously imposed is not in the best interests of the juvenile offender, the court may rescind and set aside the sentence, and enter any sentence pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, *and the overall case length limit,* 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.

(b) If the court determines that it is in the best interests of the juvenile offender to be returned to the custody of the parent or parents, the court shall so order.

(c) *If, during the proceedings,* the court ~~shall rescind an order granting custody to a parent only if the court first finds~~ *determines that there is* probable cause *to believe* that: ~~(1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;~~

~~(B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile; or~~

~~(C) immediate placement of the juvenile is in the juvenile's best interest; and~~

~~(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall state the basis of each finding~~ *the juvenile is a child in need of care as defined in K.S.A. 2015 Supp. 38-2022, and amendments thereto, the court may refer the matter to the county or district attorney, who shall file a petition as provided in K.S.A. 2015 Supp. 38-2234, and amendments thereto, and refer the family to the Kansas department for children and families for services*.

(d) *If, during the proceedings, the court finds that a juvenile offender*

needs a place to live and the court does not have probable cause to believe the juvenile is a child in need of care as defined in K.S.A. 2015 Supp. 38-2022, and amendments thereto, or if the child is emancipated or over the age of 17, the court may authorize participation in a community integration program.

(e) Any time within 60 days after a court has committed a juvenile offender to a juvenile correctional facility the court may modify the sentence and enter any other sentence, 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.

~~(e)~~*(f)* Any time after a court has committed a juvenile offender to a juvenile correctional facility, the court may, upon motion by the ~~commissioner~~ *secretary of corrections*, modify the sentence and enter any other sentence if the court determines that:

(1) The medical condition of the juvenile justifies a reduction in sentence; or

(2) the juvenile's exceptional adjustment and habilitation merit a reduction in sentence.

Sec. 45. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2368 is hereby amended to read as follows: 38-2368. ~~(a)~~ 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 ~~court services~~ *community supervision* officer or the current custodian ~~and placement~~ of the juvenile offender. *If, upon review by the assigned community supervision officer or the current custodian 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 or the current custodian* 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 ~~commissioner~~ *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 ~~and placement~~ of the juvenile offender and to each party to the proceeding. ~~Except as set out in subsection (b),~~ 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.

~~(b) The court shall not enter an order removing a juvenile from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;~~

~~(B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile; or~~

~~(C) immediate placement of the juvenile is in the juvenile's best interest; and~~

~~(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall state the basis of each finding in writing.~~

Sec. 46. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2369 is hereby amended to read as follows: 38-2369. (a) For the purpose of committing juvenile offenders to a juvenile correctional facility, *upon a finding by the judge entered into the written order that the juvenile poses a significant risk of harm to another or damage to property,* the following placements shall be applied by the judge in ~~felony or misdemeanor cases~~ *the cases specified in this subsection*. If used, the court shall establish a specific term of commitment as specified in this subsection~~, unless the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2015 Supp. 38-2371, and amendments thereto~~. *The term of commitment established by the court shall not exceed the overall case length limit.* Before a juvenile offender is committed to a juvenile correctional facility pursuant to this section, the court shall administer a risk assessment tool, as described in K.S.A. 2015 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile.

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

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

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

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

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

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

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

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

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

~~(B)~~*(C)* The serious offender~~ II~~ *III* is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 7, person felony with one prior felony adjudication. *Offenders in this category may only be committed to a juvenile correctional facility if they are assessed as high-risk on a risk and needs assessment.* Offenders in this category may be committed to a juvenile correctional facility for a minimum term of~~ nine~~ *six* months and up to a maximum term of~~ 18~~ *12* months.~~ The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 24 months.~~

~~(C)~~*(D)* The serious offender~~ III~~ *IV* is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 8, 9 or 10 person felony with one prior felony adjudication. Offenders in this category may only be committed to a juvenile correctional facility if~~ the judge conducts a~~

~~departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2015 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed,~~ *such offenders are assessed as high-risk on a risk and needs assessment.* Offenders in this category may be committed to a juvenile correctional facility for a minimum term of ~~nine~~ *six* months and up to a maximum term of ~~18~~ *12* months. ~~The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 24 months.~~

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

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

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

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

Offenders in this category may only be committed to a juvenile correctional facility if ~~the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2015 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed,~~ *such offenders are assessed as high-risk on a risk and needs assessment.* Offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of ~~18~~ *12* months. ~~The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 12 months.~~

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

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

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

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

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

~~(v) committed on or after July 1, 2012, which, if committed by an~~

adult on or after July 1, 2012, would constitute one present drug severity level 4 felony adjudication and either two prior misdemeanor adjudications or one prior person or nonperson felony adjudication; or

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

Offenders in this category may only be committed to a juvenile correctional facility if the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2015 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed, offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of 18 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 12 months.

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

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

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

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

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

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

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

Offenders in this category may only be committed to a juvenile correctional facility if the judge conducts a departure hearing and finds

~~substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2015 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed, offenders in this category may be committed to a juvenile correctional facility for a minimum term of three months and up to a maximum term of six months. The aftercare term for this offender is set at a minimum term of three months and up to a maximum term of six months.~~

~~(4)~~*(b) Conditional Release ~~Violators~~. If the court elects, a period of conditional release may also be ordered pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. The presumption upon release shall be a return to the juvenile's home, unless the case plan developed pursuant to K.S.A. 2015 Supp. 38-2373, and amendments thereto, recommends a different reentry plan.*

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

~~(A) Subject to the limitations in K.S.A. 2015 Supp. 38-2366(a), and amendments thereto, commit the offender directly to a juvenile correctional facility for a minimum term of three months and up to a maximum term of six months. The aftercare term for this offender shall be a minimum of two months and a maximum of six months, or the length of the aftercare originally ordered, whichever is longer.~~

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

~~(i)~~*(A)* Recommend additional conditions be added to those of the existing conditional release.

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

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

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

~~(b)~~*(c)* As used in this section~~:~~

~~(1) "Placement failure" means a juvenile offender in the custody of the secretary of corrections has significantly failed the terms of conditional release or has been placed out-of-home in a community placement accredited by the secretary of corrections and has significantly violated the terms of that placement or violated the terms of probation.~~

~~(2)~~ *,*"adjudication" includes out-of-state juvenile adjudications. An out-of-state offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, shall be classified as either a felony or a misdemeanor according to the adjudicating jurisdiction. If an

offense which if committed by an adult would constitute the commission of a felony is a felony in another state, it will be deemed a felony in Kansas. The state of Kansas shall classify the offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, as person or nonperson. In designating such offense as person or nonperson, reference to comparable offenses shall be made. If the state of Kansas does not have a comparable offense, the out-of-state adjudication shall be classified as a nonperson offense.

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

(d) The secretary of corrections shall work with the community to provide on-going support and incentives for the development of additional *evidence-based* community ~~placements~~ *practices and programs* to ensure that the ~~chronic offender III, escalating misdemeanant sentencing category~~ *juvenile correctional facility* is not frequently utilized.

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

Sec. 47. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2371 is hereby amended to read as follows: 38-2371. (a) (1) Whenever a person is adjudicated as a juvenile offender *and sentenced to a juvenile correctional facility as a violent offender pursuant to K.S.A. 2015 Supp. 38-2369(a)(1), and amendments thereto*, the court upon motion of the state, shall hold a hearing to consider imposition of a departure sentence *pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, and subject to section 1, and amendments thereto*. The motion shall state that a departure is sought and the reasons and factors relied upon. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issues of departure sentencing. The victim of a crime or the victim's family shall be notified of the right to be present at the hearing for the convicted person by the county or district attorney. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the hearing. The court shall review the victim impact statement, if available. Prior to the hearing, the court shall transmit to the juvenile offender or the juvenile offender's attorney and the prosecuting attorney copies of the predispositional investigation report.

(2) At the conclusion of the hearing or within 21 days thereafter, the court shall issue findings of fact and conclusions of law regarding the

issues submitted by the parties, and shall enter an appropriate order.

(3) If a factual aspect of a crime is a statutory element of the crime, or is used to determine crime severity, that aspect of the current crime of conviction may be used as an aggravating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime. Subject to this provision, the nonexclusive lists of aggravating factors provided in K.S.A. 2015 Supp. 21-6815 and 21-6816, and amendments thereto, may be considered in determining whether substantial and compelling reasons exist.

(b) If the court decides to depart on its own volition *pursuant to K.S.A. 2015 Supp. 38-2369(a)(1) and section 1, and amendments thereto*, without a motion from the state, the court must notify all parties of its intent and allow reasonable time for either party to respond if they request. The notice shall state that a departure is intended by the court and the reasons and factors relied upon.

(c) In each case in which the court imposes a sentence *pursuant to K.S.A. 2015 Supp. 38-2369 and section 1, and amendments thereto,* that deviates from the presumptive sentence, the court shall make findings of fact as to the reasons for departure regardless of whether a hearing is requested.

(d) ~~If the sentencing judge departs from the presumptive sentence,~~ The judge shall state on the record at the time of sentencing *and enter into the written record* the substantial and compelling reasons for the departure. ~~When a departure sentence is appropriate, the sentencing judge may depart from the matrix as provided in this section. When a sentencing judge departs in setting the duration of a presumptive term of imprisonment:~~

~~(1) The presumptive term of imprisonment set in such departure shall not total more than double the maximum duration of the presumptive imprisonment term;~~

~~(2) the court shall have no authority to reduce the minimum term of confinement as defined within the placement matrix; and~~

~~(3) the maximum term for commitment of any juvenile offender to a juvenile correctional facility is age 22 years, 6 months.~~

(e) A departure sentence may be appealed as provided in K.S.A. 2015 Supp. 38-2380, and amendments thereto.

Sec. 48. K.S.A. 2015 Supp. 38-2372 is hereby amended to read as follows: 38-2372. In any action pursuant to the revised Kansas juvenile justice code in which the juvenile is adjudicated upon a plea of guilty or trial by court or jury or upon completion of an appeal, the judge, ~~if sentencing the juvenile to incarceration,~~ shall direct that, for the purpose of computing *the* juvenile's *overall case length limit and, if incarcerated,* sentence and release, eligibility and conditional release dates thereunder,

that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order. *If incarcerated,* such date shall be established to reflect and shall be computed as an allowance for the time which the juvenile has spent incarcerated pending the disposition of the juvenile's case. In recording the date of commencement of such sentence, the date as specifically set forth by the court shall be used as the date of sentence and all good time calculations authorized by law *and all earned time calculations authorized by law* are to be allowed on such sentence from such date as though the juvenile were actually incarcerated in a juvenile correctional facility.

Sec. 49. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2373 is hereby amended to read as follows: 38-2373. (a) *Actions by the court.* (1) When a juvenile offender has been committed to a juvenile correctional facility, the clerk of the court shall ~~forthwith~~ *promptly* notify the ~~commissioner~~ *secretary of corrections* of the commitment and provide the ~~commissioner~~ *secretary* with a certified copy of the complaint, the journal entry of the adjudication and sentencing. The court shall provide those items from the social file which could relate to a rehabilitative program. If the court wishes to recommend placement of the juvenile offender in a specific juvenile correctional facility, the recommendation shall be included in the sentence. After the court has received notice of the juvenile correctional facility designated as provided in subsection (b), it shall be the duty of the court or the sheriff of the county to deliver the juvenile offender to the facility at the time designated by the ~~commissioner~~ *secretary.*

(2) When a juvenile offender is residing in a juvenile correctional facility and is required to go back to court for any reason, the county demanding the juvenile's presence shall be responsible for transportation, detention, custody and control of such offender. In these cases, the county sheriff shall be responsible for all transportation, detention, custody and control of such offender.

(b) *Actions by the ~~commissioner~~ secretary.* (1) Within three days, excluding Saturdays, Sundays and legal holidays, after receiving notice of commitment as provided in subsection (a), the ~~commissioner~~ *secretary* shall notify the committing court of the facility to which the juvenile offender should be conveyed, and when to effect the immediate transfer of custody and control to the ~~juvenile justice authority~~ *department of corrections*. The date of admission shall be no more than five days, excluding Saturdays, Sundays and legal holidays, after the notice to the committing court. Until received at the designated facility, the continuing detention, custody, and control of and transport for a juvenile offender sentenced to a direct commitment to a juvenile correctional facility shall be the responsibility of the committing county.

(2) Except as provided by K.S.A. 2015 Supp. 38-2332, and amendments thereto, the ~~commissioner~~ *secretary* may make any temporary out-of-home placement the ~~commissioner~~ *secretary* deems appropriate pending placement of the juvenile offender in a juvenile correctional facility, and the ~~commissioner~~ *secretary* shall notify the court, local law enforcement agency and school district in which the juvenile will be residing if the juvenile is still required to attend a secondary school of that placement.

(c) *Transfers.* During the time a juvenile offender remains committed to a juvenile correctional facility, the ~~commissioner~~ *secretary* may transfer the juvenile offender from one juvenile correctional facility to another.

(d) Case planning. For all juveniles committed to a juvenile correctional facility pursuant to K.S.A. 38-2361(a)(11), and amendments thereto, a case plan shall be developed with input from the juvenile and the juvenile's family. For all those committed upon violation of a condition of sentence pursuant to K.S.A. 2015 Supp. 38-2368, and amendments thereto, the case plan developed with the juvenile's community supervision officer shall be revised to reflect the new disposition. The department for children and families, the local school district in which the juvenile offender will be residing and community supervision officers may also participate in the development or revision of the case plan when appropriate. The case plan shall incorporate the results of the risk and needs assessment, the programs and education to complete while in custody and shall clearly define the role of each person or agency working with the juvenile. The case plan shall include a reentry section, detailing services, education, supervision or any other elements necessary for a successful transition. The reentry section of the case plan shall also include information on reintegration of the juvenile into such juvenile's family or, if reintegration is not a viable alternative, another viable release option. If the juvenile is to be placed on conditional release pursuant to K.S.A. 2015 Supp. 38-2369, the case plan shall be developed with the community supervision officer.

Sec. 50. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2374 is hereby amended to read as follows: 38-2374. (a) When a juvenile offender has satisfactorily completed the term of incarceration at the juvenile correctional facility to which the juvenile offender was committed or placed, the person in charge of the juvenile correctional facility shall have authority to release the juvenile offender under appropriate conditions and*, if conditional release has previously been ordered pursuant to K.S.A. 2015 Supp. 38-2361 or 38-2369, and amendments thereto,* for a specified period of time *to complete conditional release*. Prior to release from a juvenile correctional facility, the ~~commissioner~~ *secretary of corrections* shall consider any recommendations made by the juvenile offender's community

~~case management~~ *supervision* officer.

(b) At least 21 days prior to releasing a juvenile offender as provided in subsection (a), the person in charge of the juvenile correctional facility shall notify the committing court of the date and conditions upon which it is proposed the juvenile offender is to be released. The person in charge of the juvenile correctional facility shall notify the school district in which the juvenile offender will be residing if the juvenile is still required to attend a school. Such notification to the school shall include the name of the juvenile offender, address upon release, contact person with whom the juvenile offender will be residing upon release, anticipated date of release, anticipated date of enrollment in school, name and phone number of case worker, crime or crimes of adjudication if not confidential based upon other statutes, conditions of release and any other information the commissioner deems appropriate. To ensure the educational success of the student, the community case manager or a representative from the residential facility where the juvenile offender will reside shall contact the principal of the receiving school in a timely manner to review the juvenile offender's case. If such juvenile offender's offense would have constituted an off-grid crime, a nondrug felony crime ranked at severity level 1, 2, 3, 4 or 5, or a drug felony crime ranked at severity level 1, 2 or 3, on or after July 1, 1993, or a drug felony crime ranked at severity level 4 on or after July 1, 2012, if committed by an adult, the person in charge of the juvenile correctional facility shall notify the county or district attorney of the county where the offender was adjudicated a juvenile offender of the date and conditions upon which it is proposed the juvenile offender is to be released. The county or district attorney shall give written notice at least seven days prior to the release of the juvenile offender to: (1) Any victim of the juvenile offender's crime who is alive and whose address is known to the court or, if the victim is deceased, to the victim's family if the family's address is known to the court; and (2) the local law enforcement agency. Failure to notify pursuant to this section shall not be a reason to postpone a release. Nothing in this section shall create a cause of action against the state or county or an employee of the state or county acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section.

(c) Upon receipt of the notice required by subsection (b), the court shall review the terms of ~~the~~ *any* proposed conditional release *or case plan* and may recommend modifications or additions to the terms.

(d) If, during the conditional release, the juvenile offender is not returning to the county from which committed, the person in charge of the juvenile correctional facility shall also give notice to the court of the county in which the juvenile offender is to be residing.

(e) To assure compliance with conditional release from a juvenile

correctional facility, the commissioner shall have the authority to prescribe the manner in which compliance with the conditions shall be supervised. When requested by the ~~commissioner~~ *secretary of corrections*, the appropriate court may assist in supervising compliance with the conditions of release during the term of the conditional release. The ~~commissioner~~ *secretary of corrections* may require the parent of the juvenile offender to cooperate and participate with the conditional release.

(f) ~~For acts committed before July 1, 1999, the juvenile justice authority shall notify at least 45 days prior to the discharge of the juvenile offender the county or district attorney of the county where the offender was adjudicated a juvenile offender of the release of such juvenile offender, if such juvenile offender's offense would have constituted a class A, B or C felony before July 1, 1993, or an off-grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at severity level 1, 2 or 3, on or after July 1, 1993, or a drug crime ranked at severity level 4 on or after July 1, 2012, if committed by an adult. The county or district attorney shall give written notice at least 30 days prior to the release of the juvenile offender to: (1) Any victim of the juvenile offender's crime who is alive and whose address is known to the court or, if the victim is deceased, to the victim's family if the family's address is known to the court; and (2) the local law enforcement agency. Failure to notify pursuant to this section shall not be a reason to postpone a release. Nothing in this section shall create a cause of action against the state or county or an employee of the state or county acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section.~~

~~(g)~~ Conditional release programs shall include, but not be limited to, the treatment options of aftercare services.

Sec. 51. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2375 is hereby amended to read as follows: 38-2375. If it is 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*, ~~any~~ *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 ~~or order that the juvenile offender be returned to the juvenile correctional facility to serve the conditional release revocation incarceration and aftercare term set by the court pursuant to the placement matrix as provided in~~ *pursuant to* K.S.A. 2015 Supp. 38-2369, and amendments thereto.

Sec. 52. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2376 is hereby amended to read as follows: 38-2376. (a) When a juvenile offender has reached the age of 23 years, *has maximized the overall case length limit, or* has been convicted as an adult while serving a term of incarceration at a juvenile correctional facility, or has completed the prescribed terms of incarceration at a juvenile correctional facility, together with any conditional release following the program, the juvenile shall be discharged by the ~~commissioner~~ *secretary of corrections* from any further obligation under the commitment unless the juvenile was sentenced pursuant to an extended jurisdiction juvenile prosecution upon court order ~~and the commissioner transfers the juvenile to the custody of the secretary of corrections~~. The discharge shall operate as a full and complete release from any obligations imposed on the juvenile offender arising from the offense for which the juvenile offender was committed.

(b) At least 45 days prior to the discharge of the juvenile offender, the juvenile justice authority shall notify the court and the county or district attorney of the county where the offender was adjudicated a juvenile offender of the pending discharge of such juvenile offender, the offense would have constituted a class A, B or C felony before July 1, 1993, or an off-grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at severity level 1, 2 or 3, on or after July 1, 1993, or a drug crime ranked at severity level 4 on or after July 1, 2012, if committed by an adult. The county or district attorney shall give written notice at least 30 days prior to the discharge of the juvenile offender pursuant to K.S.A. 2015 Supp. 38-2379, and amendments thereto.

Sec. 53. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2377 is hereby amended to read as follows: 38-2377. (a) The ~~commissioner~~ *secretary* shall notify the county or district attorney, the court, the local law enforcement agency and the school district in which the juvenile offender will be residing of such pending release at least 45 days before release if the juvenile is still required to attend school, if the juvenile offender has committed an act prior to July 1, 1999, which, if committed by a person 18 years of age or over, would have constituted: (1) A class A or B felony, before July 1, 1993; or (2) an off-grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at severity level 1, 2 or 3, if the offense was committed on or after July 1, 1993, and, if such juvenile is to be released. The county or district attorney shall give written notice at least 30 days prior to discharge of the juvenile offender

pursuant to K.S.A. 2015 Supp. 38-2379, and amendments thereto. The county attorney, district attorney or the court on its own motion may file a motion with the court for a hearing to determine if the juvenile offender should be ~~retained in the custody of the commissioner, pursuant to K.S.A. 2015 Supp. 38-2376, and amendments thereto~~ *placed on conditional release if not previously ordered by the court, subject to the overall case length limit*. The court shall fix a time and place for hearing and shall notify each party of the time and place.

(b) Following the hearing, if the court orders ~~the commissioner to retain custody~~ *a period of conditional release*, the juvenile offender shall not be ~~held in a juvenile correctional facility~~ *supervised* for longer than ~~the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which the juvenile offender has been adjudicated to have committed~~ *six months of conditional release and the overall case length limit*.

~~(c) As used in this section, "maximum term of imprisonment" means the greatest maximum sentence authorized by computing terms as consecutive when required by K.S.A. 2015 Supp. 21-6606, and amendments thereto.~~

Sec. 54. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2389 is hereby amended to read as follows: 38-2389. (a) *Findings and purpose.* The following findings and declaration of purpose apply to this section.

(1) The legislature finds that personal and familial circumstances may contribute to the commission of offenses by juveniles who represent a minimal threat to public safety and that in such cases it would further the interests of society and the juvenile to take an approach to adjudication that combines less formal procedures, appropriate disciplinary sanctions for misconduct and the provision of necessary services.

(2) It is the purpose of this section to provide prosecutors with an alternative means of adjudication for juvenile offenders who present a minimal threat to public safety and both the juvenile and society would benefit from such approach.

(b) *Designation.* A county or district attorney with jurisdiction over the offense who believes that proceedings under this section are appropriate may, in such county or district attorney's discretion, designate ~~an~~ *any* alleged juvenile offender for adjudication under this section and not seek application of a placement within the placement matrix pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, if the alleged juvenile ~~offender's act, if committed by an adult, would constitute a misdemeanor~~ *has fewer than two prior adjudications*.

(1) The county or district attorney shall make such designation in the original complaint or by written notice filed with the court and served on the juvenile, the juvenile's counsel and the juvenile's parent or legal

guardian within 14 days after the filing of the complaint.

(2) The filing of a written application for ~~diversion~~ *immediate intervention* under K.S.A. 2015 Supp. 38-2346, and amendments thereto, shall toll the running of the 14-day period and shall resume upon the issuance of a written denial of diversion.

(3) If the county or district attorney makes such designation, the juvenile may be referred to an immediate intervention program established pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto, and in compliance with the standards and procedures developed pursuant to section 7, and amendments thereto.

(c) *Exceptions.* Except as provided in this subsection, the provisions of the revised Kansas juvenile justice code, K.S.A. 2015 Supp. 38-2301 et seq., and amendments thereto, shall apply in any adjudication under this section.

(1) If during the proceedings the court determines that there is probable cause to believe that the juvenile is a child in need of care as defined by K.S.A. 2015 Supp. 38-2202, and amendments thereto, the court shall refer the matter to the county or district attorney, who shall file a petition as provided in K.S.A. 2015 Supp. 38-2234, and amendments thereto, and refer the family to the Kansas department for children and families for services.

~~(A) If the court presiding over the proceeding under this section finds, in accordance with K.S.A. 2015 Supp. 38-2334 and 38-2335, and amendments thereto, that the juvenile should be removed from the home, the court may place the juvenile in the temporary custody of the secretary for children and families or any person, other than the child's parent, willing to accept temporary custody.~~

~~(B)~~ If the child in need of care case is presided over by a different judge, the county or district attorney shall notify the court presiding over the proceedings under this section of pertinent orders entered in the child in need of care case.

(2) Notwithstanding any other provision of law, no juvenile shall be committed to a juvenile correctional facility pursuant to ~~subsection (a)(12) of~~ K.S.A. 2015 Supp. 38-2361*(a)(11)*, and amendments thereto, for an offense adjudicated under this section or for the violation of a term or condition of the disposition for such an offense.

(3) Notwithstanding any other provision of law, no adjudication under this section or violation of the terms and conditions of the disposition~~, including a placement failure,~~ shall be used against the juvenile in a proceeding on a subsequent offense committed as a juvenile or as an adult. For purposes of this section, "used against the juvenile" includes, but is not limited to, establishing an element of a subsequent offense, raising the severity level of a subsequent offense or enhancing the sentence for a

subsequent offense.

(4) Upon completion of the case and the termination of the court's jurisdiction, the court shall order the adjudication expunged, and the provisions of ~~subsections (a), (b), (c), (d), (e), (i), (k) and (l) of~~ K.S.A. 2015 Supp. 38-2312*(a), (b), (c), (d), (e), (i), (k) and (l)*, and amendments thereto, shall not apply to such expungement.

(5) Notwithstanding any other provision of law, a juvenile shall not be required to register as an offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a result of adjudication under this section.

(6) The provisions of K.S.A. 2015 Supp. 38-2309 and 38-2310, and amendments thereto, shall not apply to proceedings under this section.

(7) The provisions of K.S.A. 2015 Supp. 38-2347, and amendments thereto, shall not apply to proceedings under this section.

(8) The provisions of ~~subsection (g)(1) of~~ K.S.A. 2015 Supp. 38-2304*(g)(1)*, and amendments thereto, shall not apply to proceedings under this section.

(9) The trial of offenses under this section shall be to the court and the right to a trial by jury under K.S.A. 2015 Supp. 38-2357, and amendments thereto, shall not apply.

(d) *Withdrawal.* At any time prior to the beginning of a hearing at which the court may enter an order adjudicating the child as a juvenile offender, the county or district attorney may withdraw the designation for proceedings under this section by providing notice to the court, the juvenile, the juvenile's attorney and guardian ad litem, if any, and the juvenile's parent or legal guardian. Upon withdrawal of the designation, this section shall no longer apply and the case shall proceed and the court shall grant a continuance upon request.

(e) *Appeal.* An adjudication under this section is an appealable order pursuant to K.S.A. 2015 Supp. 38-2380, and amendments thereto.

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

Sec. 55. K.S.A. 2015 Supp. 65-5603 is hereby amended to read as follows: 65-5603. (a) The privilege established by K.S.A. 65-5602, and amendments thereto, shall not extend to:

(1) Any communication relevant to an issue in proceedings to involuntarily commit to treatment a patient for mental illness, alcoholism or drug dependency if the treatment personnel in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) an order for examination of the mental, alcoholic, drug dependency or emotional condition of the patient which is entered by a judge, with respect to the particular purpose for which the examination is ordered;

(3) any proceeding in which the patient relies upon any of the aforementioned conditions as an element of the patient's claim or defense, or, after the patient's death, in any proceeding in which any party relies upon any of the patient's conditions as an element of a claim or defense;

(4) any communication which forms the substance of information which the treatment personnel or the patient is required by law to report to a public official or to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed;

(5) any information necessary for the emergency treatment of a patient or former patient if the head of the treatment facility at which the patient is being treated or was treated states in writing the reasons for disclosure of the communication and makes such statement a part of the treatment or medical record of the patient;

(6) information relevant to protect a person who has been threatened with substantial physical harm by a patient during the course of treatment, when such person has been specifically identified by the patient, the treatment personnel believes there is substantial likelihood that the patient will act on such threat in the reasonable foreseeable future and the head of the treatment facility has concluded that notification should be given. The patient shall be notified that such information has been communicated;

(7) any information from a state psychiatric hospital to appropriate administrative staff of the department of corrections whenever patients have been administratively transferred to a state psychiatric hospital pursuant to the provisions of K.S.A. 75-5209, and amendments thereto;

(8) any information to the patient or former patient, except that the head of the treatment facility at which the patient is being treated or was treated may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient;

(9) any information to any state or national accreditation, certification or licensing authority, or scholarly investigator, but the head of the treatment facility shall require, before such disclosure is made, a pledge that the name of any patient or former patient shall not be disclosed to any person not otherwise authorized by law to receive such information;

(10) any information to the state protection and advocacy system which concerns individuals who reside in a treatment facility and which is required by federal law and federal rules and regulations to be available pursuant to a federal grant-in-aid program;

(11) any information relevant to the collection of a bill for professional services rendered by a treatment facility;

(12) any information sought by a coroner serving under the laws of Kansas when such information is material to an investigation or

proceeding conducted by the coroner in the performance of such coroner's official duties. Information obtained by a coroner under this provision shall be used for official purposes only and shall not be made public unless admitted as evidence by a court or for purposes of performing the coroner's statutory duties;

(13) any communication and information by and between or among treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities regarding a proposed patient, patient or former patient for purposes of promoting continuity of care by and between treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities; the proposed patient, patient, or former patient's consent shall not be necessary to share evaluation and treatment records by and between or among treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities regarding a proposed patient, patient or former patient;

(14) the name, date of birth, date of death, name of any next of kin and place of residence of a deceased former patient when that information is sought as part of a genealogical study;

(15) any information concerning a patient or former patient who is a juvenile offender in the custody of the juvenile justice authority when the commissioner of juvenile justice, or the commissioner's designee, requests such information; or

(16) information limited to whether a person is or has been a patient of any treatment facility within the last six months, such person having been lawfully detained by a law enforcement officer upon reasonable suspicion that such person is committing, has committed or is about to commit a misdemeanor or felony, if such law enforcement officer has reasonable suspicion that such person is suffering from mental illness and such law enforcement officer has a reasonable belief that such person may benefit from treatment at a treatment facility rather than being placed in a correctional institution, jail, juvenile correctional facility or juvenile detention facility. Any communication and information obtained by any law enforcement officer regarding such person from such treatment facility shall not be disclosed except as provided by this section.

(b) As used in this subsection:

(1) "Correctional institution" means the same as prescribed in K.S.A. 75-5202, and amendments thereto;

(2) "jail" means the same as prescribed in K.S.A. 2015 Supp. ~~38-3202~~ *38-2302*, and amendments thereto;

(3) "juvenile correctional facility" means the same as prescribed in K.S.A. 2015 Supp. ~~38-3202~~ *38-2302*, and amendments thereto;

(4) "juvenile detention facility" means the same as prescribed in

K.S.A. 2015 Supp. ~~38-3202~~ *38-2302*, and amendments thereto;

(5) "law enforcement officer" means the same as prescribed in K.S.A. 22-2202, and amendments thereto; and

(6) "mental illness" means mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, the welfare of others or the welfare of the community.

(c) The treatment personnel shall not disclose any information subject to subsection (a)(3) unless a judge has entered an order finding that the patient has made such patient's condition an issue of the patient's claim or defense. The order shall indicate the parties to whom otherwise confidential information must be disclosed.

Sec. 56. On and after July 1, 2017, K.S.A. 2015 Supp. 72-1113 is hereby amended to read as follows: 72-1113. (a) Each board of education shall designate one or more employees who shall report to the secretary for children and families, or a designee thereof, or to the appropriate county or district attorney pursuant to an agreement as provided in this section, all cases of children who are less than 13 years of age and are not attending school as required by law, and to the appropriate county or district attorney, or a designee thereof, all cases of children who are 13 or more years of age but less than 18 years of age and are not attending school as required by law. The designation shall be made no later than September 1 of each school year and shall be certified no later than 10 days thereafter by the board of education to the secretary for children and families, or the designee thereof, to the county or district attorney, or the designee thereof, and to the commissioner of education. The commissioner of education shall compile and maintain a list of the designated employees of each board of education. The local area office of the Kansas department for children and families may enter into an agreement with the appropriate county or district attorney to provide that the designated employees of such board of education shall make the report as provided in this section for all cases of children who are less than 13 years of age and are not attending school as provided by law to the county or district attorney in lieu of the secretary, or the secretary's designee. If such agreement is made, the county or district attorney shall carry out all duties as otherwise provided by this subsection conferred on the secretary or the secretary's designee. A copy of such agreement shall be provided to the director of such area office of the Kansas department for children and families and to the school districts affected by the agreement.

(b) Whenever a child is required by law to attend school, and the child is not enrolled in a public or nonpublic school, the child shall be considered to be not attending school as required by law and a report thereof shall be made in accordance with the provisions of subsection (a) by a designated employee of the board of education of the school district

in which the child resides. The provisions of this subsection are subject to the provisions of subsection (d).

(c) (1) Whenever a child is required by law to attend school and is enrolled in school, and the child is inexcusably absent therefrom on either three consecutive school days or five school days in any semester or seven school days in any school year, whichever of the foregoing occurs first, the child shall be considered to be not attending school as required by law. A child is inexcusably absent from school if the child is absent therefrom all or a significant part of a school day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child.

(2) Each board of education shall adopt rules for determination of valid excuse for absence from school and for determination of what shall constitute a "significant part of a school day" for the purpose of this section.

(3) Each board of education shall designate one or more employees, who shall each be responsible for determining the acceptability and validity of offered excuses for absence from school of specified children, so that a designee is responsible for making such determination for each child enrolled in school.

(4) Whenever a determination is made in accordance with the provisions of this subsection that a child is not attending school as required by law, the designated employee who is responsible for such determination shall make a report thereof in accordance with the provisions of subsection (a)*, provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto*.

(5) The provisions of this subsection are subject to the provisions of subsection (d).

(d) (1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary for children and families or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate

verifying the manner in which notice was provided to the parent or person acting as parent.

(2) Whenever a law enforcement officer assumes temporary custody of a child who is found away from home or school without a valid excuse during the hours school is actually in session, and the law enforcement officer delivers the child to the school in which the child is enrolled or to a location designated by the school in which the child is enrolled to address truancy issues, the designated employee of the board of education shall serve notice thereof upon a parent or person acting as parent of the child. The notice may be oral or written and shall inform the parent or person acting as parent of the child that the child was absent from school without a valid excuse and was delivered to school by a law enforcement officer.

(e) Whenever the secretary for children and families receives a report required under this section, the secretary shall investigate the matter. If, during the investigation, the secretary determines that the reported child is not attending school as required by law, the secretary shall institute proceedings under the revised Kansas code for care of children. If, during the investigation, the secretary determines that a criminal prosecution should be considered, the secretary shall make a report of the case to the appropriate law enforcement agency.

(f) Whenever a county or district attorney receives a report required under this section, the county or district attorney shall investigate the matter. If, during the investigation, the county or district attorney determines that the reported child is not attending school as required by law, the county or district attorney shall prepare and file a petition alleging that the child is a child in need of care. If, during the investigation, the county or district attorney determines that a criminal prosecution is necessary, the county or district attorney shall commence such action.

(g) As used in this section, "board of education" means the board of education of a school district or the governing authority of a nonpublic school. The provisions of this act shall apply to both public and nonpublic schools.

Sec. 57. On and after July 1, 2017, K.S.A. 2015 Supp. 72-8222 is hereby amended to read as follows: 72-8222. (a) The board of education of any school district or the board of trustees of any community college may employ school security officers, and may designate any one or more of such school security officers as a campus police officer, to aid and supplement law enforcement agencies of the state and of the city and county in which the school district or community college is located.

(b) The protective function of school security officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas

adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each school security officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.

(c) The protective function of campus police officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each campus police officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college*, provided that such officer does not violate the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto*.

(d) Campus police officers shall have the power and authority of law enforcement officers:

(1) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(2) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (d)(1);

(3) within the city or county where property described in subsection (d)(1) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(4) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (d)(1) or (d)(2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons

for such a violation;

(5) when in fresh pursuit of a person; and

(6) when transporting persons in custody to an appropriate facility, wherever it may be located.

(e) In addition to enforcement of state law, county resolutions and city ordinances, campus police officers shall enforce rules and regulations and rules and policies of the board of trustees or school board, whether or not violation thereof constitutes a criminal offense. While on duty, campus police officers shall wear and display publicly a badge of office. No such badge shall be required to be worn by any plain clothes investigator or departmental administrator, but any such officer shall present proper credentials and identification when required in the performance of such officer's duties. In performance of any of the powers, duties and functions authorized by this section, K.S.A. 22-2401a, and amendments thereto, or any other law, campus police officers shall have the same rights, protections and immunities afforded other law enforcement officers.

(f) The board of education of each school district shall adopt a policy providing for notification of a student's parents or guardians whenever the student is taken into custody by a campus police officer.

Sec. 58. On and after July 1, 2017, K.S.A. 2015 Supp. 72-89b03 is hereby amended to read as follows: 72-89b03. (a) If a school employee has information that a pupil is a pupil to whom the provisions of this subsection apply, the school employee shall report such information and identify the pupil to the superintendent of schools. The superintendent of schools shall investigate the matter and, upon determining that the identified pupil is a pupil to whom the provisions of this subsection apply, shall provide the reported information and identify the pupil to all school employees who are directly involved or likely to be directly involved in teaching or providing other school related services to the pupil. The provisions of this subsection apply to:

(1) Any pupil who has been expelled for the reason provided by ~~subsection (c) of~~ K.S.A. 72-8901*(c)*, and amendments thereto, for conduct which endangers the safety of others;

(2) any pupil who has been expelled for the reason provided by ~~subsection (d) of~~ K.S.A. 72-8901*(d)*, and amendments thereto;

(3) any pupil who has been expelled under a policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto;

(4) any pupil who has been adjudged to be a juvenile offender and whose offense, if committed by an adult, would constitute a felony under the laws of Kansas or the state where the offense was committed, except any pupil adjudicated as a juvenile offender for a felony theft offense involving no direct threat to human life; and

(5) any pupil who has been tried and convicted as an adult of any

felony, except any pupil convicted of a felony theft crime involving no direct threat to human life.

A school employee and the superintendent of schools shall not be required to report information concerning a pupil specified in this subsection if the expulsion, adjudication as a juvenile offender or conviction of a felony occurred more than 365 days prior to the school employee's report to the superintendent of schools.

(b) Each board of education shall adopt a policy that includes:

(1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons*, provided that the report would not violate the terms of the memorandum of understanding approved by the school employee's school district pursuant to subsection (i)*; and

(2) the procedures for making such a report.

(c) School employees shall not be subject to the provisions of ~~subsection (b) of~~ K.S.A. 72-89b04*(b)*, and amendments thereto, if:

(1) They follow the procedures from a policy adopted pursuant to the provisions of subsection (b); or

(2) their board of education fails to adopt such policy.

(d) Each board of education shall annually compile and report to the state board of education at least the following information relating to school safety and security: The types and frequency of criminal acts that are required to be reported pursuant to the provisions of subsection (b), *arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to the criminal act,* disaggregated by occurrences at school, on school property and at school supervised activities. *The data must include an analysis according to race, gender and any other relevant demographic information.* The report shall be incorporated into and become part of the current report required under the quality performance accreditation system.

(e) Each board of education shall make available to pupils and their parents, to school employees and, upon request, to others, district policies and reports concerning school safety and security, except that the provisions of this subsection shall not apply to reports made by a superintendent of schools and school employees pursuant to subsection (a).

(f) Nothing in this section shall be construed or operate in any manner so as to prevent any school employee from reporting criminal acts to school officials and to appropriate state and local law enforcement

agencies.

(g) The state board of education shall extract the information relating to school safety and security from the quality performance accreditation report and transmit the information to the governor, the legislature, the attorney general, the secretary of health and environment, the secretary for children and families and the commissioner of juvenile justice.

(h) No board of education, member of any such board, superintendent of schools or school employee shall be liable for damages in a civil action resulting from a person's good faith acts or omissions in complying with the requirements or provisions of the Kansas school safety and security act.

(i) The state board of education shall require that the superintendent of schools in each school district or the superintendent's designee develop, approve and submit to the state board of education a memorandum of understanding developed in collaboration with relevant stakeholders, including law enforcement agencies, the courts and the district and county attorneys, establishing clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system with the goal of reducing such referrals and protecting public safety. The state board of education shall provide a report annually to the department of corrections and to the office of judicial administration compiling school district compliance and summarizing the content of each memorandum of understanding.

Sec. 59. On and after July 1, 2017, K.S.A. 2015 Supp. 72-89c02 is hereby amended to read as follows: 72-89c02. (a) Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon or illegal drug at school, upon school property or at a school supervised activity or has engaged in an act or behavior, committed at school, upon school property, or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make a report of the pupil's act to the appropriate law enforcement agency*, provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto*. The report shall be given as soon as practicable, but not to exceed 10 days from the date of the pupil's act, excluding holidays and weekends, to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency as soon as practicable but not to exceed 10 days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's

license number, if available, and a description of the act committed by the pupil. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

(b) If timely notice is not given to the appropriate law enforcement agency or to the division as specified in subsection (a), the division of vehicles shall not suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state.

(c) If timely notice is given to the appropriate law enforcement agency and the division as specified in subsection (a), the division of vehicles immediately shall suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state. The duration of the suspension shall be for a period of one year. Upon expiration of the period of suspension, the pupil may apply to the division for return of the license. If the license has expired, the pupil may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the pupil's privilege to operate a motor vehicle is in effect. If the pupil does not have a driver's license, the pupil's driving privileges shall be revoked. If timely notice is given to the appropriate law enforcement agency and the division as required by subsection (a), no Kansas driver's license shall be issued to a pupil whose driving privileges have been revoked pursuant to this subsection for a period of one year:

(1) Immediately following the date of receipt by the division of notification from a law enforcement agency containing the description of the pupil's act, if the pupil is eligible to apply for a driver's license; or

(2) after the date the pupil will be eligible to apply for a driver's license, if the pupil is not eligible to apply for a driver's license on the date of receipt of the notification.

(d) If the pupil's driver's license or driving privilege has been revoked, suspended or canceled for another cause, the suspension or revocation required by this section shall apply consecutively to the previous revocation, suspension or cancellation.

(e) Upon suspension or revocation of a pupil's driver's license or driving privilege to operate a motor vehicle as provided in this section, the division of vehicles shall immediately notify the pupil in writing. If the pupil makes a written request for hearing within 30 days after such notice of suspension or revocation, the division of vehicles shall afford the pupil an opportunity for a hearing as provided by K.S.A. 8-255, and amendments thereto. The scope of the hearing shall be limited to determination of whether or not: (1) Notice was given to the appropriate law enforcement agency and the division within the time specified in subsection (a); or (2) there are reasonable grounds to believe the pupil was

in possession of a weapon or illegal drug at school, upon school property, or at a school-supervised activity or was engaged in behavior at school, upon school property, or at a school-supervised activity, which resulted in, or was substantially likely to have resulted in, serious bodily injury to others.

(f) For the purposes of this section, the term driver's license includes, in addition to any commercial driver's license and any class A, B, C or M driver's license, any restricted license issued under K.S.A. 8-237, and amendments thereto, any instruction permit issued under K.S.A. 8-239, and amendments thereto, and any farm permit issued under K.S.A. 8-296, and amendments thereto.

Sec. 60. K.S.A. 2015 Supp. 74-4914 is hereby amended to read as follows: 74-4914. (1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days and the

attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) Except as provided in subsection (7), on or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to $20,000 or more in any one such calendar year, or $25,000 or more in any one calendar year between July 1, 2016, and July 1, 2021, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant

or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official, except an elected city or county officer as further provided in this subsection, on and after the term of office of such other elected official which commences on or after July 1, 2000. Notwithstanding any provisions of law to the contrary, when an elected city or county officer is retired under the provisions of subsection (1) or (4) of this section and is paid an amount of compensation of $25,000 or more in any one calendar year between July 1, 2016, and July 1, 2021, such officer may receive such officer's salary, and still be entitled to receive such officer's retirement benefit pursuant to the provisions of K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of $20,000 or more in any one calendar year, the member may continue to receive any amount provided in K.S.A. 46-137a(b) and (d), and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~*(k)*, and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing

in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

(7) (a) Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing July 1, 2016, and ending July 1, 2021, any retirant who is employed or appointed in or to any position by a participating employer or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to $25,000 or more, pursuant to this subsection. The provisions of this subsection shall apply to members of the legislature.

(b) The provisions of this subsection shall not apply to retirants that are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302~~(f)~~*(k)*, and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), (4) or (5), and amendments thereto;

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the actuarial determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and

amendments thereto;

(v) employed as substitute teachers or officers, employees or appointees of the legislature; and

(vi) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection.

(c) The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits. No retirant shall receive credit for service while employed under the provisions of this subsection.

(d) A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:

(i) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;

(ii) the employer pays to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%;

(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.

(e) An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exception provided for in subsection (7)(d) by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee.

(f) On July 1, 2016, and at least every five years thereafter, the joint committee on pensions, investments and benefits shall study the issue of whether the compensation limitation prescribed in this subsection should be adjusted. The committee shall consider the effect of inflation and data on member retirement benefits and active employee compensation.

(g) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

Sec. 61. On and after January 1, 2017, K.S.A. 2015 Supp. 75-7023 is hereby amended to read as follows: 75-7023. (a) The supreme court through administrative orders shall provide for the establishment of a juvenile intake and assessment system and for the establishment and operation of juvenile intake and assessment programs in each judicial district. ~~On and after July 1, 1997,~~ The secretary for children and families may contract with the ~~commissioner of juvenile justice~~ *secretary of corrections* to provide for the juvenile intake and assessment system and programs for children in need of care. Except as provided further, ~~on and after July 1, 1997, the commissioner of juvenile justice~~ *the secretary of corrections* shall promulgate rules and regulations for the juvenile intake and assessment system and programs concerning juvenile offenders. If the ~~commissioner~~ *secretary* contracts with the office of judicial administration to administer the juvenile intake and assessment system and programs concerning juvenile offenders, the supreme court administrative orders shall be in force until such contract ends and the rules and regulations concerning juvenile intake and assessment system and programs concerning juvenile offenders have been adopted.

(b) No records, reports and information obtained as a part of the juvenile intake and assessment process may be admitted into evidence in any proceeding and may not be used in a child in need of care proceeding except for diagnostic and referral purposes and by the court in considering dispositional alternatives. However, if the records, reports or information are in regard to abuse or neglect, which is required to be reported under K.S.A. 2015 Supp. 38-2223, and amendments thereto, such records, reports or information may then be used for any purpose in a child in need of care proceeding pursuant to the revised Kansas code for care of children.

(c) Upon a juvenile being taken into custody pursuant to K.S.A. 2015 Supp. 38-2330, and amendments thereto, a juvenile intake and assessment worker shall complete the intake and assessment process*, making release and referral determinations* as required by supreme court administrative order or district court rule ~~prior to July 1, 1997~~, or except as provided above rules and regulations established by the ~~commissioner of juvenile justice on and after July 1, 1997~~ *secretary of corrections*.

(d) Except as provided in subsection (g) and in addition to any other information required by the supreme court administrative order, the secretary *for children and families*, the ~~commissioner~~ *secretary of corrections* or by the district court of such district, the juvenile intake and assessment worker shall collect the following information *either in person*

or over two-way audio or audio-visual communication:

(1) *The results of* a standardized *detention* risk assessment tool *pursuant to K.S.A. 2015 Supp. 38-2302, and amendments thereto, if detention is being considered for the juvenile*, such as the problem oriented screening instrument for teens;

(2) criminal history, including indications of criminal gang involvement;

(3) abuse history;

(4) substance abuse history;

(5) history of prior community services used or treatments provided;

(6) educational history;

(7) medical history; and

(8) family history.

(e) After completion of the intake and assessment process for such child, the intake and assessment worker ~~may~~ *shall make both a release and a referral determination*:

(1) Release the child to the custody of the child's parent, other legal guardian or another appropriate adult ~~if the intake and assessment worker believes that it would be in the best interest of the child and it would not be harmful to the child to do so~~.

(2) Conditionally release the child to the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that if the conditions are met, it would be in the child's best interest to release the child to such child's parent, other legal guardian or another appropriate adult; and the intake and assessment worker has reason to believe that it might be harmful to the child to release the child to such child's parents, other legal guardian or another appropriate adult without imposing the conditions. The conditions may include, but not be limited to *the alternatives listed in K.S.A. 2015 Supp. 38-2331(c), and amendments thereto, and the following*:

(A) Participation of the child in counseling;

(B) participation of members of the child's family in counseling;

(C) participation by the child, members of the child's family and other relevant persons in mediation;

(D) provision of ~~inpatient~~ *outpatient* treatment for the child;

(E) referral of the child and the child's family to the secretary for children and families for services and the agreement of the child and family to accept and participate in the services offered;

(F) referral of the child and the child's family to available community resources or services and the agreement of the child and family to accept and participate in the services offered;

(G) requiring the child and members of the child's family to enter into a behavioral contract which may provide for regular school attendance

among other requirements; or

(H) any special conditions necessary to protect the child from future abuse or neglect.

(3) Deliver the child to a shelter facility or a licensed attendant care center along with the law enforcement officer's written application *for a maximum stay of up to 72 hours*. The shelter facility or licensed attendant care facility shall then have custody as if the child had been directly delivered to the facility by the law enforcement officer pursuant to K.S.A. 2015 Supp. 38-2232, and amendments thereto.

(4) ~~Refer the child to~~ *The intake and assessment worker shall also refer the juvenile's case to one of the following:*

(A) An immediate intervention program pursuant to K.S.A. 2015 Supp. 38-2346(b), and amendments thereto;

(B) the county or district attorney for appropriate proceedings to be filed*, with or without a recommendation that the juvenile be considered for alternative means of adjudication programs pursuant to K.S.A. 2015 Supp. 38-2389, and amendments thereto, or immediate intervention pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto;* or

(C) refer the child and family to the secretary for children and families for investigations in regard to the allegations.

~~(5) Make recommendations to the county or district attorney concerning immediate intervention programs which may be beneficial to the juvenile.~~

(f) The ~~commissioner may adopt rules and regulations which allow local juvenile intake and assessment programs to create a risk assessment tool, as long as such tool meets the mandatory reporting requirements established by the commissioner~~ *secretary of corrections, in conjunction with the office of judicial administration, shall develop, implement and validate on the Kansas juvenile population, a statewide detention risk assessment tool*.

(1) The assessment shall be conducted for each youth under consideration for detention and may only be conducted by a juvenile intake and assessment worker who has completed training to conduct the detention risk assessment tool.

(2) The secretary and the office of judicial administration shall establish cutoff scores determining eligibility for placement in a juvenile detention facility or for referral to a community-based alternative to detention and shall collect and report data regarding the use of the detention risk assessment tool.

(3) The detention risk assessment tool includes an override function that may be approved by the court for use under certain circumstances. If approved by the court, the juvenile intake and assessment worker or the court may override the detention risk assessment tool score in order to

direct placement in a short-term shelter facility, a community-based alternative to detention or, subject to K.S.A. 2015 Supp. 38-2331, and amendments thereto, a juvenile detention facility. Such override must be documented, include a written explanation and receive approval from the director of the intake and assessment center or the court.

(4) If a juvenile meets one or more eligibility criteria for detention or referral to a community-based alternative to detention, the person with authority to detain shall maintain discretion to release the juvenile if other less restrictive measures would be adequate.

(g) Parents, guardians and juveniles may access the juvenile intake and assessment programs on a voluntary basis. The parent or guardian shall be responsible for the costs of any such program utilized.

(h) Every juvenile intake and assessment worker shall receive training in evidence-based practices, including, but not limited to:

(1) Risk and needs assessments;

(2) individualized diversions based on needs and strengths;

(3) graduated responses;

(4) family engagement;

(5) trauma-informed care;

(6) substance abuse;

(7) mental health; and

(8) special education.

Sec. 62. K.S.A. 2015 Supp. 75-7038 is hereby amended to read as follows: 75-7038. The ~~commissioner of juvenile justice~~ *secretary of corrections* may make grants to counties for the development, implementation, operation and improvement of juvenile community correctional services including, but not limited to, restitution programs; victim services programs; balanced and restorative justice programs; preventive or diversionary correctional programs; programs to reduce racial, geographic and other biases that may exist in the juvenile justice system; *community-based alternatives to detention;* and community juvenile corrections centers and facilities for the detention or confinement, care or treatment of juveniles being detained or adjudged to be a juvenile offender.

Sec. 63. K.S.A. 2015 Supp. 75-7044 is hereby amended to read as follows: 75-7044. (a) Subject to the other provisions of this section, each juvenile corrections advisory board established under K.S.A. 75-7038 through 75-7053, and amendments thereto, shall consist of 12 or more members who shall be representative of law enforcement, *defense,* prosecution, the judiciary, education, corrections, ethnic minorities, the social services and the general public and shall be appointed as follows:

(1) The law enforcement representatives shall be:

(A) The sheriff or, if two or more counties are cooperating, the sheriff

selected by the sheriffs of those counties, or the designee of that sheriff; and

(B) the chief of police of the city with the largest population at the time the board is established or, if two or more counties are cooperating, the chief of police selected by the chiefs of police of each city with the largest population in each county at the time the board is established, or the designee of that chief of police, except that for purposes of this paragraph in the case of a county having consolidated law enforcement and not having a sheriff or any chiefs of police, "sheriff" means the law enforcement director and "chief of police of the city with the largest population" or "chief of police" means a law enforcement officer, other than the law enforcement director, appointed by the county law enforcement agency for the purposes of this section;

(2) the prosecution representative shall be the county or district attorney or, if two or more counties are cooperating, a county or district attorney selected by the county and district attorneys of those counties, or the designee of that county or district attorney;

(3) the judiciary representative shall be the judge of the district court of the judicial district, who is assigned the juvenile court docket or the judge who is assigned most juvenile court cases, or if there is more than one judge in the judicial district who is assigned the juvenile court docket, the administrative judge of such judicial district shall appoint one of the judges who is assigned the juvenile court docket, containing the county or group of counties or, if two or more counties in two or more judicial districts are cooperating, the judge of each such judicial district, who is assigned the juvenile court docket or the judge who is assigned most juvenile court cases, or if there is more than one judge in the judicial district who is assigned the juvenile court docket, the administrative judge of such judicial district shall appoint one of the judges who is assigned the juvenile court docket;

(4) the education representative shall be an educational professional appointed by the board of county commissioners of the county or, if two or more counties are cooperating, by the boards of county commissioners of those counties;

(5) a court services officer designated by the judge of the district court of the judicial district, who is assigned the juvenile court docket or the judge who is assigned most juvenile court cases, or if there is more than one judge in the judicial district who is assigned the juvenile court docket, the administrative judge of such judicial district shall appoint one of the judges who is assigned the juvenile court docket, containing the county or group of counties or, if counties in two or more judicial districts are cooperating, a court services officer designated by the judges of those judicial districts, who are assigned the juvenile court docket or the judges

who are assigned most juvenile court cases;

(6) an executive director of the community mental health center or such director's designee or in the absence of such position, the board of county commissioners of the county shall appoint or, if two or more counties are cooperating, the boards of county commissioners of those counties shall together appoint a representative of mental health service providers for juveniles in such county or counties;

(7) the board of county commissioners of the county shall appoint or, if two or more counties are cooperating, the boards of county commissioners of those counties shall together appoint at least three and no more than six additional members of the juvenile corrections advisory board or, if necessary, additional members so that each county which is not otherwise represented on the board is represented by at least one member of such board; ~~and~~

(8) three members of the juvenile corrections advisory board shall be appointed by cities located within the county or group of cooperating counties as follows:

(A) If there are three or more cities of the first class, the governing body of each of the three cities of the first class having the largest populations shall each appoint one member;

(B) if there are two cities of the first class, the governing body of the larger city of the first class shall appoint two members and the governing body of the smaller city of the first class shall appoint one member;

(C) if there is only one city of the first class, the governing body of such city shall appoint all three members; ~~and~~ *or*

(D) if there are no cities of the first class, the governing body of each of the three cities having the largest populations shall each appoint one member*; and*

(9) the juvenile defense representative shall be a practicing juvenile defense attorney in the judicial district and shall be selected by the judge of the district court of the judicial district who is assigned the juvenile court docket.

(b) If possible, of the members appointed by the boards of county commissioners in accordance with subsection (a)(7) and by the governing bodies of cities in accordance with subsection (a)(8), members shall be representative of one or more of the following:

(1) Public or private social service agencies;

(2) ex-offenders;

(3) the health care professions; and

(4) the general public.

(c) At least two members of each juvenile corrections advisory board shall be representative of ethnic minorities and no more than $^{2}/_{3}$ of the members of each board shall be members of the same gender.

(d) In lieu of the provisions of subsections (a) through (c), a group of cooperating counties as provided in ~~subsection (a)(2) of~~ K.S.A. 75-7052*(a)(2)*, and amendments thereto, may establish a juvenile corrections advisory board which such board's membership shall be determined by such group of counties through cooperative action pursuant to the provisions of K.S.A. 12-2901 through 12-2907, and amendments thereto, to the extent that those statutes do not conflict with the provisions of K.S.A. 75-7038 through 75-7053, and amendments thereto, except that if two or more counties in two or more judicial districts are cooperating, the administrative judge of each such judicial district, or a judge of the district court designated by each such administrative judge shall be a member of such board. In determining the membership of the juvenile corrections advisory board pursuant to this subsection, such group of counties shall appoint members who are representative of law enforcement, *defense,* prosecution, the judiciary, education, corrections, ethnic minorities, the social services and the general public. Any juvenile corrections advisory board established and the membership determined pursuant to this subsection shall be subject to the approval of the commissioner of juvenile justice.

(e) In lieu of the provisions of subsections (a) through (d) and subject to the approval of the ~~commissioner of juvenile justice~~ *secretary of corrections*, any county may designate the corrections advisory board, as established in K.S.A. 75-5297, and amendments thereto, as such county's juvenile corrections advisory board. For the purposes of K.S.A. 75-7038 through 75-7053, and amendments thereto, if a county designates the corrections advisory board as provided by this subsection, membership on such board shall be expanded to comply with the requirements of subsection (a).

Sec. 64. K.S.A. 2015 Supp. 75-7046 is hereby amended to read as follows: 75-7046. Juvenile corrections advisory boards established under the provisions of K.S.A. 75-7038 through 75-7053, and amendments thereto, shall *adhere to the goals of the juvenile justice code as provided in K.S.A. 2015 Supp. 38-2301, and amendments thereto, coordinate with the Kansas juvenile justice oversight committee created in section 4, and amendments thereto,* actively participate in the formulation of the comprehensive plan for the development, implementation and operation of the juvenile correctional services described in K.S.A. 75-7038, and amendments thereto, in the county or group of cooperating counties, and shall make a formal recommendation to the board or boards of county commissioners at least annually concerning the comprehensive plan and its implementation and operation during the ensuing year. The formal recommendation concerning the comprehensive plan shall include provisions to address racial, geographic and other biases that may exist in

the juvenile justice system.

Sec. 65. K.S.A. 2015 Supp. 79-4803 is hereby amended to read as follows: 79-4803. (a) After the transfer of moneys pursuant to K.S.A. 2015 Supp. 79-4806, and amendments thereto:

(1) An amount equal to 10% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the correctional institutions building fund created pursuant to K.S.A. 76-6b09, and amendments thereto, to be appropriated by the legislature for the use and benefit of state correctional institutions as provided in K.S.A. 76-6b09, and amendments thereto; and

(2) an amount equal to 5% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the juvenile *alternatives to* detention ~~facilities~~ fund.

(b) There is hereby created in the state treasury the juvenile *alternatives to* detention ~~facilities~~ fund which shall be administered by the commissioner of juvenile justice. The Kansas advisory group on juvenile justice and delinquency prevention shall review and make recommendations concerning the administration of the fund. All expenditures from the juvenile *alternatives to* detention ~~facilities~~ fund shall be for the ~~retirement of debt of facilities for the detention of juveniles; or for the construction, renovation, remodeling or operational costs of facilities for the detention of juveniles~~ *development and operation of community-based alternatives to detention* in accordance with a grant program which shall be established with grant criteria designed *by the secretary of corrections* to facilitate the expeditious award and payment of grants for the purposes for which the moneys are intended. "Operational costs" shall not be limited to any per capita reimbursement by the ~~commissioner of juvenile justice for juveniles~~ *secretary* under the supervision and custody of the ~~commissioner~~ *secretary* but shall include payments to counties as and for their costs of operating ~~the facility. The commissioner of juvenile justice~~ *community-based alternatives to detention for juveniles. The secretary* shall make grants of the moneys credited to the juvenile *alternatives to* detention ~~facilities~~ fund for such purposes to counties in accordance with such grant program. All expenditures from the juvenile *alternatives to* detention ~~facilities~~ fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~commissioner of juvenile justice~~ *secretary* or the ~~commissioner's~~ *secretary's* designee.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the juvenile *alternatives to* detention ~~facilities~~ fund interest earnings based on:

(1) The average daily balance of moneys in the juvenile *alternatives*

to detention ~~facilities~~ fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 66. K.S.A. 12-4112 and 20-167 and K.S.A. 2015 Supp. 8-241, 8-2110, 12-4117, 38-2302, 38-2313, 38-2347, 38-2360, 38-2364, 38-2366, 38-2367, 38-2372, 65-5603, 74-4914, 75-7038, 75-7044, 75-7046 and 79-4803 are hereby repealed.

Sec. 67. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2330, 38-2331, 38-2332, 38-2344, 38-2346, 38-2373 and 75-7023 are hereby repealed.

Sec. 68. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2304, 38-2325, 38-2334, 38-2335, 38-2342, 38-2343, 38-2361, 38-2368, 38-2369, 38-2371, 38-2374, 38-2375, 38-2376, 38-2377, 38-2389, 72-1113, 72-8222, 72-89b03 and 72-89c02 are hereby repealed.

Sec. 69. On and after July 1, 2018, K.S.A. 2015 Supp. 38-2365 is hereby repealed.

Sec. 70. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2202, 38-2232, 38-2242, 38-2243, 38-2260 and 38-2288 are hereby repealed.

Sec. 71. This act shall take effect and be in force from and after its publication in the statute book.