

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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from supervision

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

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

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

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

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

; or (d) the juvenile has absconded from supervision

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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, the officer assigned to supervise compliance with the conditions of release or, upon referral from such officer, the county or district attorney may file a report with the committing court or the court of the county in which the juvenile offender resides describing the alleged violation and the juvenile's history of violations. The court shall provide copies of the report to the parties to the proceedings. The court, upon the court's own motion or the county or district attorney, shall set the matter for hearing. The movant shall provide notice of the motion and hearing to each party to the proceeding and the current custodian and placement of the juvenile offender. If the court finds that a condition of release has been violated, the court may modify or impose additional conditions of release that the court considers appropriate pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto.~~

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