

## SB367 Juvenile Justice Reform

### Section 1 (New) page 1:

Restricts the length of court jurisdiction of an adjudicated juvenile offender to: 12 months for a misdemeanor; 15 months for a low or moderate risk felony offender; 18 months for a high risk felony offender; 30 months for any risk level for SL1-3 person felonies; up to 42 months (may be extended up to 66 months under departure rules) for any risk level for any off-grid felony or certain other listed crimes. Consecutive sentencing is prohibited. Extended jurisdiction beyond time limits listed above is prohibited.

Probation is limited as follows: 6 months for a misdemeanor; 6 months for a low or moderate risk felony offender; 12 months for a high risk felony offender. Probation can only be extended to complete evidence based program. Overall probation cannot exceed court jurisdiction limits in paragraph above. Probation limits do not apply to off-grid or certain listed felonies, but cannot exceed court jurisdiction limits in paragraph above.

Placement in detention is established by the court but cannot exceed the court jurisdiction limits in first paragraph above.

### Section 2 (New) page 3:

DOC will establish a statewide regulation of structured community based graduated responses to technical probation violations, violations release violations and violations of sentencing conditions.

Technical probation violations cannot be considered by the court until the third violation. 1<sup>st</sup> and 2<sup>nd</sup> violations may only be handled by community supervision officers and must be graduated sanctions based on risk level assessment.

### Section 3 (New) page 4:

Courts must use interdisciplinary teams to review cases where a juvenile is failing with their immediate intervention plan. (Effective 1/1/17)

### Section 4 (New) page 4:

Establishes a juvenile justice oversight committee to oversee implementation of reform measures intended to improve the juvenile justice system. The only law enforcement representative is a person from a state law enforcement agency appointed by the governor.

### Section 5 (New) page 6:

Requires training on evidence based programs and practices for a list of those working with adjudicated juveniles or juveniles in immediate intervention programs. The list does not include law enforcement in general but does include juvenile corrections officers (I am unclear if this is just state or if it includes local corrections officers in a juvenile detention facility).

### Section 6 (New) page 7:

Oversight of all defense attorneys in the state who represent juveniles.

### Section 7 (New) page 7:

Directives to DOC for development of standards and procedures guiding immediate intervention programs, certain other programs (as provided in KSA 38-2346), and other programs (as provided in KSA 38-2389).

Section 8 (New) page 7:

Requiring reintegration plans for a juvenile with an out of home placement.

Section 9 (New) page 7:

DOC must establish regulations on good time credit for juveniles in their custody.

Section 10 (New) page 7:

Supreme Court must establish rules on an earned discharge program for release from probation.

Section 11 (New) page 8:

Requires development of training protocol for judges, prosecutors and defense attorneys who work with juvenile cases.

Section 12 (New) page 8: Effective 1/1/17

DOC must create plan and provide funding to “incentivize the development of immediate intervention programs.” Sets criteria for the use of these “grants.”

Section 13 (New) page 8:

Requires DOC to develop reintegration plans for juveniles ready for transition to independent living.

**Section 14 (New) page 8:**

**Establishes a “juvenile justice improvement fund” to support community programs under DOC oversight. Attempts to establish statutory designation of state agency funds saved by using community programs and placing those funds into the “juvenile justice improvement fund.”**

**Section 15 (New) page 9:**

**Requires the AG (working with KLETC and state board of education) to develop rules and regulations “creating a skill development training for responding effectively to misconduct in school while minimizing exposure to the criminal justice system.” The training will be required for “each school district. . . designee and any law enforcement officer primarily assigned to a school. . .”**

Section 16 (Amends KSA 8-241) page 9:

Redirects certain fee distributions from the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund.” Also see section 64 which renames the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund” and designates the funds to be used for community juvenile programs.

Section 17 (Amends KSA 8-2110) page 12:

Redirects certain fee distributions from the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund.” Also see section 64 which renames the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund” and designates the funds to be used for community juvenile programs.

Section 18 (Amends KSA 12-4112) page 14:

Redirects certain fee distributions from the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund.” Also see section 64 which renames the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund” and designates the funds to be used for community juvenile programs.

Section 19 (Amends KSA 12-4117) page 15:

Redirects certain fee distributions from the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund.” Also see section 64 which renames the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund” and designates the funds to be used for community juvenile programs.

Section 20 (Amends KSA 20-167) page 16:

Eliminates the provision requiring the supervision fee be paid before a juvenile is eligible for early release.

Section 21 (Amends KSA 38-2202) page 16:

**Definitions: Amends the definition of “secure facility” (page 20) to exclude a juvenile detention facility. (This is critical to application of some other changes such as those found in section 22.)**

Section 22 (Amends KSA 38-2232) page 21: Effective 7/1/17

**Requires the law enforcement officer to deliver certain children to a “secure facility” which cannot include a juvenile detention facility. (Page 21, line 40; page 22, lines 2 and 25-26)**

Section 23 (Amends KSA 38-2242) page 23: Effective 7/1/17

Same as section 22, striking the use of juvenile detention facilities as a court option for placement of CINC pre-adjudication (page 25, lines 3-4).

Section 24 (Amends KSA 38-2243) page 25: Effective 7/1/17

Court ordered temporary custody: Same as above, strikes option of juvenile detention facility (page 27, lines 26-27).

Section 25 (Amends KSA 38-2255) page 28: Effective 7/1/17

Court requirements: Prohibits supervision by court services in certain cases where there is no court supervision. (page 32, lines 22-26)

Section 26 (Amends KSA 38-2260) page 32: Effective 7/1/17

Court requirements relating to placement order violations: Prohibits use of juvenile detention facility. (Page 33, lines 2, 8-9, 31, 35, and 38; page 34 lines 25, 33-34, 40).

Section 27 (Amends KSA 38-2288) page 35: Effective 7/1/17

Repeals a provision in the current law allowing CINC to be placed in a juvenile detention facility if necessary to protect the safety of the child. (Effective 7/1/17)

Section 28 (Amends KSA 38-2302) page 35:

Definitions: Creates definition for “Community Supervision Officer” which includes “court services officer, community corrections or any other authorized to supervise a juvenile on an immediate intervention, probation or conditional release.” (page 35, lines 24-27)

Defines “Detention Risk Assessment Tool” (page 35, lines 37-41)

Defines “evidence based,” “graduated responses,” and “immediate intervention.” (page 36, lines 5-16)

Amends definition of “juvenile offender” by striking the exclusion of a person under 18 who has been previously sentenced as an adult. (page 37, line 24-26)

Defines “overall case length limit” (page 36, line 39 through page 37 line 28-30)

Defines “probation,” “reintegration plan” (page 38, lines 5-31)

Amends definition of “risk assessment tool” to a definition of “risk and needs assessment” (page 38, lines 32-37)

Strikes definition of “Sanctions house” (page 38, line 38 through page 39, line 2)

Defines “secretary” as the secretary of corrections; and defines “technical violation.” (page 39 lines 3-9)

Strikes definition of “youth residential center” (page 39, lines 13-16)

#### Section 29 (Amends KSA 38-2304) Page 39

Strikes successfully completing order of assignment to community corrections as an event to allow ending district court jurisdiction of a juvenile offender, and replaces it with “reaches the overall case limit.” (page 39, lines 21-32 and line 37. Strikes ending district court jurisdiction if the offender is convicted of a new felony while incarcerated in a juvenile detention facility and replaces it with “is convicted of a crime as an adult pursuant to” KSA Chapter 22. (page 39, line 39 through page 40, line 2)

Limits extended jurisdiction, including successful completion of conditional release to not extend beyond the overall case length limit. (page 40, lines 9-14)

Provides a CINC in the custody of DCF at time of sentencing must address the issues of abuse and neglect by parents and prepare parents for the child’s return home. (page 40, line 22-25)

Replaces the provision dealing with a juvenile offender in out of home placement if adjudicated for a felony or second misdemeanor with a requirement court services, community corrections, and DOC to “address the risks and needs of the juvenile based on the results of a risk and needs assessment. (page 40, lines 26-41)

#### Section 30 (Amends 38-2313) Page 41

Technical amendments to statute references

#### Section 31 (Amends KSA 38-2325) Page 42 Effective 7/1/17

Amends definition of “juvenile offender information” by adding a lengthy non-exclusive list of items. (page 43, lines 9-32)

#### Section 32 (Amends KSA 38-2330) Page 44 Effective 1/1/17

**A juvenile taken into custody for a warrant must be released to the parents, and if the parents “or other custodian” and if that is not possible they may be issued a notice to appear or taken to intake at the discretion of the officer. (page 45, line 17-page 46, line 15)**

**A juvenile taken into custody by law enforcement without a warrant the officer has the discretion to issue a notice to appear in lieu of taking the child to intake. (page 46, line 35-page 47 line 16)**

#### Section 33 (Amends KSA 38-2331) Page 47 Effective 1/1/17

The court cannot order a child removed from the home under this section except if indicated by a risk assessment or the court finds probable cause community based alternatives are insufficient to assure the child meets a list of conditions enumerated in the statute. (page 47 line 17-page 49 line 4)

**Provides a list of reasons that cannot be used as the sole reason to place a child in a juvenile detention facility: (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 the applicable graduated responses or sanctions protocol allows such placement.** (page 49 lines 5-15)

Section 34 (Amends KSA 38-2332) Page 49 Effective 1/1/17

Strikes references to youth residential facilities and extended juvenile jurisdiction.

Section 35 (Amends KSA 38-2342) Page 50

Amending when the court may issue a warrant for a juvenile to exclude “violations of conditions of placement” and to include violations of “conditions of release from detention for a third or subsequent time and the juvenile poses a significant risk of physical harm to another.”

Section 36 (Amends KSA 38-2343 Extended Detention) Page 50 Effective 1/1/17

Amends justification for detaining a child more than 48 hours.

**Strikes temporary custody provisions. (page 52, lines 9-14)**

Adds requirement for court to hold a detention review hearing every 7 days. (page 52, lines 24-26)

Section 37 (Amends KSA 38-2344) Page 52 Effective 1/1/17

Adds an additional notice the court must advise the juvenile of when they do not have an attorney: the right to be offered an immediate intervention. (page 52, lines 37-38)

Section 38 (Amends KSA 38-246) Page 53 Effective 1/1/17

Amends the immediate intervention process required to be developed by intake and the district attorney.

Mandates intake to offer an opportunity for a juvenile to enter an immediate intervention program if they were taken into custody for a misdemeanor or a violation of KSA 21-5507, unlawful voluntary sexual relations, and has no prior adjudications. The district attorney can also offer an immediate intervention program. (This is like a diversion.) The intervention plan cannot last more than four months. Failing the conditions results in the juvenile being referred to a multidisciplinary team to determine further action. (page 53, line 32-page 55, line 37)

If the juvenile has one prior adjudication the district attorney may offer the juvenile an immediate intervention or determine another adjudication is warranted. The DA must consider recommendations from intake. (Page 55, line 41-page 56, line 5)

Section 39 (Amends KSA 38-2347) Page 56

Changes the rules of transferring a juvenile to adult court. Raises minimum age to 14. Creates the presumption they will remain in the juvenile system and requires a court determination to transfer them based on the preponderance of evidence.

Section 40 (Amends KSA 38-2360) Page 60

KDADS is mandated to conduct an assessment for mental health or substance abuse treatment on order of the court. (page 60 lines 34-39)

Requires the court be provided a summary of the risk needs assessment post-adjudication, predisposition, and used to inform supervision decisions. Requires a uniform statewide risk and needs assessment tool. (page 61, lines 26-36)

Section 41 (Amends KSA 38-2361) Page 62

Provides for sentencing alternatives. Too extensive to summarize here.

Section 42 (Amends KSA 38-2366) Page 69

Strikes extended jurisdiction for the statute.

Section 43 (Amends KSA 38-2367) Page 70

Under certain conditions the court may order the DA to file a CINC petition at any time after ordering custody or placement.

Section 44 (Amends KSA 38-2368) Page 71

Establishes sanctions for violating conditions of placement or probation.

Section 45 (Amends KSA 38-2369) Page 72

Amends the courts placement options when the juvenile poses a risk of harm to another.

Section 46 (Amends KSA 38-2371) Page 77

Directs how the court handles sentencing for a violent juvenile offender.

Section 47 (Amends KSA 38-2372) Page 79

Rules for establishing the overall case length limit.

Section 48 (Amends KSA 38-2373) Page 79 Effective 1/1/17

Procedure for the court when a juvenile is committed to t juvenile correctional facility.

Section 49 (Amends KSA 38-2374) Page 81

Procedures for when the juvenile completes period of incarceration at a juvenile correctional facility.

Section 50 (Amends KSA 38-2375) Page 82

Provisions for when a juvenile violates conditions of a conditional release.

Section 51 (Amends KSA 38-2376) Page 83

Amends procedures for discharge from commitment.

Section 52 (Amends KSA 38-2377) Page 84

Technical amendments for required notification of pending release from juvenile correction facility.

Section 53 (Amends KSA 38-2389) Page 84 Effective 1/1/17

Alternative means of adjudication. What applied only for a misdemeanor applies for any case with less than two adjudications and adds an option for the district attorney to place the juvenile in an immediate intervention program. (page 85, lines 4-24)

Strikes a provision allowing the court to remove a child from a home and place in DCF custody when there is probable cause of a CINC. (page 85, lines 36-41)

Section 54 (Amends KSA 65-5603) Page 87

Technical amendments.

Section 55 (Amends KSA 72-1113) Page 89 Effective 7/1/17

Technical amendments reference section 57.

Section 56 (Amends KSA 72-8222) Page 92 Effective 7/1/17

Technical amendments reference section 57.

Section 57 (Amends KSA 72-89b03) Page 93 Effective 7/1/17

**Requires a memorandum of understanding between school districts, law enforcement, 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.** (page 95, lines 26-37)

Section 58 (Amends KSA 72-89c02) Page 95 Effective 7/1/17

Technical amendments reference section 57.

Section 59 (Amends KSA 74-4914) Page 97

Technical amendments

Section 60 (Amends KSA 75-7023) Page 102 Effective 1/1/17

**Adds the completion of a detention risk assessment by intake and a resulting release and referral determination. Provides the intake assessment may be completed by two-way audio or video communications. Removes the believes that it would be in the best interest of the child” option for placement other than with a parent, guardian or other appropriate adult. Adds a provision for immediate intervention as one of the available options for intake. Also adds other release decision provisions.**

Section 61 (Amends KSA 75-7038) Page 105

Provides for DOC grants for community based programs.

Section 62 (Amends KSA 75-7004) Page 106

Adds a defense attorney position to the juvenile corrections advisory board.

Section 63 (Amends KSA 79-4803) Page 109

Renames the “juvenile detention facilities fund” to the “juvenile alternatives to detention fund” and designates the funds to be used for community juvenile programs. Also see sections 16 and 17.

Section 64 (Amends KSA 79-4803) Page 109

Changes the recipient of a portion of certain gaming revenues to a fund for support of development and operation of community-based alternatives to detention.