

Juvenile Justice Reform Summary of Provisions Directly Affecting Law Enforcement

Complete and extensive overhaul of the Juvenile Justice laws.
[SB367 Bill Brief](#) Effective 7/1/2016 Various Delayed Effective Dates

The following summarizes only those parts of the bill directly affecting law enforcement:

Oversight Committee

Much of the implementation of the reform will be guided and monitored by an Oversight Committee. Local law enforcement will have a seat on this committee which will be filled with appointment by the Attorney General. The make-up and duties of the committee are found in section 4 of the bill. The Committee provisions are effective on July 1, 2016.

Training

The bill includes a requirement for specific training for all law enforcement officers whose primary assignment is in K-12 schools. The design of that training is responsibility of the Attorney General working in collaboration with the Kansas Law Enforcement Training Center. This part of the bill is effective July 1, 2016, marking when work must begin on developing the training. The Attorney General must have regulations in place for the training by January 1, 2017. The deadline for completing the training is not set out in the bill and should be established by regulation. This provision is found in section 14 of the bill.

Definition of Law Enforcement Officer

The applicable definition of a “law enforcement officer” is found in KSA 38-2202 in relation to Article 22 on Juvenile Offenders and KSA 38-2302 in relation to Article 23 on a Child in Need of Care. The definition is identical in both statutes and neither is amended by this bill. The definition includes “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.” These statutes are found in sections 23 and 29 of the bill. Section 23 doesn’t take effect until 7/1/19, but the existing statute has the same definition for law enforcement officer making that definition current law and effective for the purposes of the bill. Section 29 takes effect on July 1, 2016.

Taking a Child into Custody as a Juvenile Offender

The provisions of KSA 38-2232 covering the statutory requirement when law enforcement takes a child into custody as a juvenile offender are amended, but these amendments are not effective until July 1, 2019. The amendments change the language requiring transfer of custody of the child from “. . . the child shall forthwith be delivered to the custody of. . .” to “. . . the child shall promptly be delivered to the custody of. . .” when referring to release to the parent/guardian, to the facility directed by a “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 [of DCF]”; or in the case of truancy, to the school of attendance. This section also deletes references to placing the child in a juvenile detention center since such placement will be heavily restricted after July 1, 2019. This is found in section 24 of the bill.

Taking a Child into Custody as a Child in Need of Care (CINC)

The provisions of KSA 38-2330 covering the statutory requirements when law enforcement takes a child into custody as a child in need of care (CINC) is amended effective January 1, 2017. These amendments remove the authority of court services, juvenile community corrections officers, and others authorized to supervise a child in need of care to take a child into custody for violations of a term of probation or placement. Those persons along with “any other officer with power of arrest” also will no longer be able to arrest a juvenile without a warrant for condition violations but may request a warrant from the court if the person has two prior violations of conditions AND the juvenile “poses a significant risk of physical harm to another or damage to property.”

A juvenile taken into custody by a law enforcement officer is required to take the child 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.” Stricken from subsection (d)(1) is the requirement to go to intake first and the provision allowing the officer to place the child in a nonsecure facility under certain conditions. In other words, release to the parent is the priority and other options will be very difficult to accomplish. If a parent or custodian of the child is not available, the child may be issued a notice to appear or taken to intake. The use of detention is only allowed when “all suitable alternatives are exhausted.”

Notice to Appear

Effective January 1, 2017, there is statutory authority for law enforcement to issue a child a notice to appear versus immediately taking the child to intake. The notice to appear requires the child and the parent to appear at Juvenile Intake within 48 hours. The law provides law enforcement “may” issue a notice to appear, it does not require a notice to appear be used in any given circumstance. The specifics of this are in section 33 subsection (d)(2) and subsection (g). The requirements of the Notice to Appear contents, service, and distribution are in subsection (g). Among other things it requires service on the juvenile, the juvenile’s parent and copies to Juvenile Intake and the County/District Attorney.

Juvenile Offender Information and Reportable Events

Effective July 1, 2017, KSA 38-2325 is amended the definition of “Juvenile Offender Information” by adding an extensive and non-inclusive list of data. See [Section 32 subsection \(c\)](#) for details. It also removes placement in a youth residential facility as a reportable event.

Transfer of Juveniles To Juvenile Correctional Facility

Effective January 1, 2017, the process for transfer of a child to the custody of the Kansas Department of Corrections for court placement to the state Juvenile Correction Facility is amended. However, the changes directly affecting law enforcement are purely technical and the process we follow remains essentially the same. This is found in section 49 of the bill (page 50).

Department of Corrections Notification of Release of Juvenile from State Custody

Effective July 1, 2017, KSA 38-2377 is amended. The significant change is that the ability of the prosecutor to ask the court to order the child to remain in state custody is removed. The prosecutor may now only ask the court to place the child on conditional release if not previously ordered by the court and such conditional release remains subject to the limits on the overall length of time the child can be under supervision and detention. Details are in section 53 (page 53) of the bill.

Schools

Effective July 1, 2017, KSA 72-1113 relating to truancy is amended. The change is in section 56 subsection (c)(4) (page 57) is related to reporting truancy to the county/district attorney and states it must not conflict with the newly required MOU between the school district and the prosecutor.

The same requirement to not violate the MOU is made applicable to KSA 72-8222 by an amendment in section 57 subsection (c) of the bill (page 58). This provision deals with jurisdiction and “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.” This provision becomes effective on July 1, 2017.

KSA 72-89b03 is amended by section 58 (page 59) effective July 1, 2017. There are three main amendments in the section:

1. Subsection (i) requires an MOU to be in place between each school district and “with relevant stakeholders, including law enforcement agencies, the courts and the district and county attorneys. . .” The MOU must establish “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.” A copy of the MOU must be filed with the State Board of Education.
2. Subsection (b)(1) conditioning the report of a crime to law enforcement to not conflict with the MOU required in subsection (i).
3. Subsection (d) adds some reporting elements required in the annual report on criminal acts related to the school district by each school board. The report must now also include “arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to the criminal act” and “an analysis according to race, gender and any other relevant demographic information.”

KSA 72-89c02 is amended effective July 1, 2017, by section 59 (page 60). The change is in subsection (a) and makes reporting to law enforcement when a student is found with a weapon in school conditional upon not conflicting with the MOU required in section 58 subsection (i).

Juvenile Intake

A child taken into custody as a child in need of care (CINC) or as a juvenile offender will have initial placement decided by juvenile intake and must be based on a “detention risk assessment tool.” Intake is also given significant latitude to place the child directly into an “immediate intervention program” which is similar to a diversion. That placement is subject to policy established in consultation with the prosecutor (it does not require agreement with or approval by the prosecutor). Such placement is an alternative to referral to the prosecutor. This is found in section 63 (page 66) of the bill and is effective on January 1, 2017.

Created by Ed Klumpp

ed.klumpp@KsLawEnforcementInfo.com

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