

## Juvenile Justice Reform

### Summary of Provisions Directly Affecting Law Enforcement Effective on January 1, 2017

The Juvenile Justice Reform bill, SB367, is a complete and extensive overhaul of the Juvenile Justice laws. [SB367 Bill Brief](#) Effective 7/1/2016 Various Delayed Effective Dates

This document summarizes **only those provisions going into effect on January 1, 2017** and focuses on those parts of the bill directly affecting law enforcement.

**NOTE:** Section 63 of SB367 was further amended by section 22 of [SB418](#). The SB418 amendments were unrelated to the topic of Juvenile Justice Reform, but amended some of the same statutes. The amendments made in SB418 is the final version of the statute and combines amendments made for the purposes of both SB367 and SB418. Since SB367 was already signed into law when SB418 passed, the changes made in SB367 are not visible in SB418 as italics and strikeouts. Looking at section 63 of SB367 gives the best view of changes relative to juvenile justice reform.

Bill sections effective July 1, 2017

Bill Section	Statute	Statute Title
1	New 38-2391	Overall case length limits
2*	New 38-2392	Community-based graduated responses for technical violations of probation, violations of conditional release & condition of sentence
3	New 38-2393	Multidisciplinary team for failure to comply with immediate intervention plan
5	New 38-2394	Training for individuals working with juveniles adjudicated or participating in an immediate intervention
6*	New 38-2395	Standards for immediate intervention
8	New 38-2397	DOC regulations on earned credit
11	New 75-52,163	Funding for juvenile immediate intervention programs
33	38-2330 Amended	Juvenile Taken into custody, when; procedure; release; detention in jail
34	38-2331 Amended	Criteria for detention of juvenile in detention facility
35	38-2332 Amended	Prohibiting placement or detention of juvenile in jail; exceptions
38	38-2344 Amended	First appearance; plea
39	38-2346 Amended	Immediate intervention programs
49	38-2373 Amended	Commitment to juvenile correctional facility; transfers
63*	75-7023 Amended	Juvenile intake and assessment system; confidentiality of records; information collected; dispositional alternatives; custody of child; conditions of release.

\* These bill sections are effective January 1, 2017, however DOC has announced they are delaying implementation.

#### Notice to Appear

Effective January 1, 2017, there is statutory authority for law enforcement to issue a juvenile a notice to appear versus immediately taking the juvenile to intake. The notice to appear requires the juvenile 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.

The author suggests law enforcement agencies to work with your local courts and prosecutors to develop written policies on the use the Notice to Appear. It is also suggested the policy consider issues such as whether or not the parents could be contacted; mental stability of the juvenile; and other concerns for the welfare of the child if released to the public versus to a parent.

### **Taking a Juvenile into Custody under Revised Juvenile Justice Code**

The provisions of KSA 38-2330 (SB367§33) covering the statutory requirements when law enforcement takes a juvenile into custody is amended effective January 1, 2017. The amendment in subsection (d) changes what law enforcement is to do with a juvenile taken into custody and not issued a Notice to Appear. The new law requires law enforcement to release the juvenile to the custody of the parents, unless there are reasonable grounds to believe that such action would not be in the best interests of the juvenile or would pose a risk to public safety or property, or if the juvenile cannot be delivered to a parent or custodian. Only if those conditions are met shall the juvenile be taken to intake without unnecessary delay.

Under subsection (e), absent a court order law enforcement must direct the release of a juvenile after 48 hours. (This changes from the provision of "have the authority to" direct such a release prior to January 1, 2017.) This section also changes the juvenile intake release of a juvenile by removing the "have authority to" direct a release prior to a detention hearing to a requirement to release prior to a detention hearing and removing the condition to allowing release if there is reason to believe the juvenile will appear for further proceedings if released and they will not be a danger to themselves or others if released.

If a person age 18 or more is taken into custody by law enforcement for an offense taking place when the person was a juvenile, the juvenile may not be placed in jail unless the person is found to be eligible for detention under the juvenile code and all suitable alternatives have been exhausted.

### **Juvenile Intake**

The provisions of KSA 75-7023 (SB367§63) are amended effective January 1, 2017. These amendments require the use of risk assessment tools prior to detention decisions, places the detention decisions solely in the hands of the intake worker and not with law enforcement, and allows the intake worker to choose to refer certain cases to immediate intervention and not to the County or District Attorney. NOTE: DOC has announced the risk assessment provision will not be in place on January 1, 2017.

### **Immediate Intervention**

The provisions of KSA 38-2346 (SB367§39) and KSA 75-2023 (SB367§63) subsection (e)(4) covering immediate intervention programs is amended effective January 1, 2017. These amendments require Juvenile Intake and the County or District Attorney to adopt policies and guidelines. Immediate interventions may be imposed by juvenile intake for misdemeanor violations or a violation of KSA 21-5507 (unlawful sexual relations). Immediate interventions may be imposed by the County or District Attorney if the juvenile has fewer than two prior adjudications. If the conditions of the immediate sanction are fulfilled by the juvenile, no case will be filed.

In subsection (a)(1), in conjunction with subsection (e), it also allows juvenile intake or law enforcement to issue a summons ordering the juvenile to appear before a designated court at a stated time and place to answer a pending charge.

Standards for the immediate intervention plan are contained in a new statute, KSA 38-2395 (SB367§6) which is effective on January 1, 2017. NOTE: DOC has announced this provision will not be in place on January 1, 2017.

A new statute, KSA 38-2393 (SB367§3) establishes a multidisciplinary team to determine a course of action for a juvenile who fails to follow the immediate intervention plan.

### **Detention in Juvenile Facility**

The provisions of KSA 38-2331 (SB367§34) covering the statutory requirements for a court to order the detention of a juvenile in a juvenile detention facility is amended effective January 1, 2017.

As provided in subsection (a), the court may only order such detention if 1) a risk assessment has been completed and indicates the juvenile meets the detention criteria, or the court finds grounds to override the risk assessment findings and the court finds on the record probable cause that:

- (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

As provided in subsection (b) the court may order community based alternatives which include but are not 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.

Subsection (c) provides no juvenile may 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.

KSA 38-2332 (SB367§35) is amended to add the restrictions listed above for KSA 38-2330 and KSA 38-2331 for when a juvenile may be placed in a jail pursuant to the revised Kansas juvenile justice code, unless the previously existing exceptions in subsections (b), (c), or (d) of the statute are met.

### **Probation Violations**

Probation violations also are handled differently according to amendments in KSA 38-2330 (SB367§33) subsection (b) and (c). No longer can a person authorized to supervise a juvenile probationer take the juvenile probationer into custody absent a warrant from the court. A warrant may only be sought if the violation of conditions is the third or subsequent violation and the juvenile poses a significant risk of physical harm to another person or damage to property.

A new statute, KSA 38-2392 (SB367§2) establishes community based sanctions for technical probation condition violations, violation of conditional release, or condition of sentence. NOTE: DOC has announced this provision will not be in place on January 1, 2017.

### **Transfer of Custody to DOC**

The provisions of KSA 38-2373 (SB367§49) covering the statutory requirements for a court to order the detention of a juvenile by DOC and the transfer of such juvenile to DOC is amended effective January 1, 2017. There does not appear to be any significant change for law enforcement in this amendment.

### **Training**

The new KSA 75-763 (SB367§14) 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 the responsibility of the Attorney General working in collaboration with the Kansas Law Enforcement Training Center. This part of the bill is effective July 1, 2017, marking when the training programs should become available. The Attorney General must have regulations in place for the training by January 1, 2017. The regulations are now in effect and published in the Kansas Register, [copy available at this link](#). The training programs must be in place by July 1, 2017, and must be completed by July 1, 2018.

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