

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2021**

As Agreed to April 6, 2023

Brief*

HB 2021 would create and amend law regarding the assessment of and provision of services to children in the child welfare and juvenile justice systems; overall case length limits and community-based graduated sanctions under the Revised Kansas Juvenile Justice Code (Juvenile Code); exchange of confidential data within the juvenile justice system; and use of funds from the Evidence-based Programs Account (Account) of the State General Fund. The bill would also change the criteria used to admit youths to a juvenile crisis intervention center by adding definitions for “behavioral health crisis” and changing the phrase “mental health crisis” to “behavioral health crisis” in various statutes.

Risk and Needs Assessments for Children Exhibiting Criminogenic Behaviors

The bill would require, on or before October 1, 2023, the Secretary for Children and Families to identify an evidence-based risk and needs assessment to administer to children identified as exhibiting behavior that could lead to juvenile offender charges related to physical violence, aggression, damage to property, or use of life-threatening drugs during the course of a Child in Need of Care case (CINC). The bill would direct the Secretary for Children and Families to administer the assessment and would require the Secretary to collaborate with the Secretary of Corrections to allow these identified children to participate in programs funded by the Account. The bill would clarify such assessment would be part of the child’s official CINC file and could not be admitted to evidence during the course of a proceeding under the Juvenile Code. The bill would require the Secretary for Children and Families to report on the implementation of this section, and to provide the assessment used to the Joint Committee on Corrections and Juvenile Justice Oversight (JCCJJO) on or before January 1, 2024.

Standardized Risk and Needs Assessments for Juvenile Offenders

The bill would direct the Secretary of Corrections to ensure when a juvenile is placed in detention, the juvenile would:

- Receive a standardized risk and needs assessment within 72 hours, or have appropriate updates made to such assessment if one has already been conducted;

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- Receive an updated or completed case plan within 48 hours after such assessment has been conducted or updated; and
- Have access to behavioral health services, mental health services, and substance use treatment disorder services while in detention.

The bill would require the Secretary of Corrections to coordinate with court services, community corrections, and juvenile detention centers to provide the services described above in a timely manner, and for a juvenile in the custody of the Department for Children and Families (DCF), to coordinate with the Secretary for Children and Families to provide such services. The cost of assessments conducted or services provided to juvenile offenders could be assessed to the Kansas Department of Corrections (KDOC).

The bill also would also direct the Secretary of Corrections to collect data regarding these assessments and services and report findings to JCCJJO before July 1 of each year.

Collaboration Between Agencies

The bill would amend the CINC Code and the Juvenile Code to require, if a child, juvenile, or juvenile offender is eligible to receive services from DCF, KDOC, or the Judicial Branch, that these agencies collaborate to provide such services. The bill would state that nothing in the CINC Code provision or in the Juvenile Code would preclude the eligible child from accessing services by the listed agencies or any other state agency if the child is otherwise eligible for services.

In the Juvenile Code, this provision would replace an existing provision requiring collaboration between KDOC and the Secretary for Children and Families to furnish services.

Juvenile Code Case Length

The bill would amend the overall case length limits for juvenile offenders. The court would be able to extend the overall case length limit to allow for completion of an evidence-based program if the juvenile's repeated, intentional effort to delay is the reason for failure to complete the evidence-based program, as reported by the evidence-based services provider. Such extensions could only be granted incrementally.

Community-based Graduated Sanctions for Violations of Sentence Disposition by Juveniles

The bill would amend law governing community-based graduated responses to certain violations of juvenile sentencing dispositions including probation, conditional release, and condition of sentence by juveniles to require the court services officer or community correctional services officer to immediately notify the court and submit a written report showing in what manner the juvenile has violated such sentencing disposition.

The bill would also amend the section to allow a judge to commit a juvenile, who is on probation, to detention for a probation violation if the judge makes a finding that the juvenile is demonstrating escalating use of physical violence, aggression, weapons, damage to property,

or life-threatening substances. The detention period could not exceed 24 hours for the first violation, 48 hours for the second violation, and 15 days for the third or subsequent violation.

Confidential Data Exchange System

The bill would require KDOC to develop a system, or contract with an entity to develop an electronic records system not maintained by KDOC, by July 1, 2025, to facilitate the exchange of confidential information between all parts of the juvenile justice system. The bill would require any contracted system to include a verification system that is operated by KDOC for the purpose of verifying the authenticity and validity of electronic records and would specify such electronic records would have the same legal effect as paper records. KDOC would be required to report to the JCCJJO, House Committee on Appropriations, Senate Committee on Judiciary, Senate Committee on Ways and Means, and House Committee on Corrections and Juvenile Justice on the progress of the development by the first day of the 2024 Legislative Session.

Amendments to Evidence-based Programs Account

The bill would amend law governing the Account to expand allowable expenditures to include evidence-based community programs and practices for:

- Juvenile offenders and their families [*Note*: Current law does not allow expenditures for juvenile offenders' families];
- Juveniles experiencing a behavioral health crisis and their families [*Note*: Current law allows expenditures for juveniles experiencing a mental health crisis];
- Children who have been administered a risk and needs assessment and have been identified as exhibiting criminogenic behaviors as described in the bill; and
- Grants under provisions described below.

The bill would expand those eligible to administer such programs and practices to include:

- Community mental health centers;
- Community health centers;
- The Youth Advocate Program;
- Jobs for America's Graduates—Kansas Transition Services; and
- Any other community-based service provider offering evidence-based community programs.

The bill would require the Secretary of Corrections to develop and implement a grant program with the goal of implementing evidence-based community programs and promising practices throughout the state, subject to the availability of funding in the Account after other expenditures for evidence-based programs are made. The Secretary would be required to adopt grant requirements and to evaluate grant-funded programs to ensure the program is being delivered as intended. Any provider of evidence-based community programs for juveniles could

apply for a grant, and priority would be given to any county that demonstrates low availability of evidence-based community programs for juveniles. Child welfare case management providers would not be eligible to receive grants through the Account.

The bill would require expenditures made from the Account to be made promptly and on a rolling basis to develop and implement evidence-based community programs as services are needed throughout the state.

Definition of Behavioral Health Crisis

This bill would define “behavioral health crisis” in the CINC Code to mean “behavioral and conduct issues that impact the safety or health of a child, members of the child’s household or family or members of the community, including, but not limited to, non-life threatening mental health and substance abuse concerns.” A definition, identical except for the use of the term of “juvenile” rather than “child,” would be added to the Juvenile Code and to a statute regarding juvenile crisis intervention centers.

The bill would amend statutes relating to law enforcement officers taking children or juveniles into custody and the court directing temporary custody to refer to behavioral health crisis instead of mental health crisis.

Juvenile Crisis Intervention Centers

This bill would amend the statute establishing juvenile crisis intervention centers to add substance abuse services to the services to be provided by a juvenile crisis center. The bill also would add a behavioral health condition as a reason a juvenile could be determined to be likely to cause harm to self or others.

Conference Committee Action

The Conference Committee agreed to HB 2021, as passed by the House, with the following modifications:

- Adjust the requirements of the Secretary for Children and Families and Secretary of Corrections to coordinate actions with respect to children exhibiting criminogenic behaviors;
- Insert a provision prohibiting the result of a risk and needs assessment conducted on a child exhibiting criminogenic behaviors to be used as evidence in a proceeding under the Juvenile Code;
- Insert a provision requiring the Secretary for Children and Families to report on risk and needs assessments conducted on children exhibiting criminogenic behaviors;
- Insert provisions concerning the duties of the Secretary of Corrections when a juvenile is placed in detention, including duties related to collaborating with certain entities to provide services and report related findings to JCCJJO;

- Remove provisions extending the overall maximum cumulative detention cap a court can assign a juvenile;
- Amend a provision allowing a court to extend the overall case length limit if the delay is due to a juvenile's repeated, intentional effort to delay completion of such program;
- Insert a provision that when a juvenile has violated probation, conditional release, or a condition of a sentence, the court services officer or community correctional services officer would immediately notify the court in writing;
- Amend a provision that a judge may commit a juvenile to detention for violation of such probation if the judge makes a finding the juvenile is demonstrating escalating use of physical violence, aggression, weapons, damage to property, or life-threatening substance;
- Expand the list of providers that may administer evidence-based community programs and practices; and
- Add "promising practices" to the list of allowable expenditures of moneys from the Account.

The Conference Committee also agreed to insert the provisions of HB 2033, as passed by the House, concerning the criteria used to refer and admit juveniles to a juvenile crisis intervention center.

Background

The Conference Committee agreed to amend and include the provisions of HB 2021 and agreed to insert the contents of HB 2033.

HB 2021 (Collaboration of Agencies to Provide Services to Children in Need of Care and Juvenile Offenders; Evidence-Based Programs Account)

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Owens.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on January 30, 2023, representatives of the Children's Alliance of Kansas (CAK), Kansas Association of Court Services Officers (KACSO), Kansas Community Corrections Association, (KCCA), KVC Kansas, Saint Francis Ministries, the Board of Sedgwick County Commissioners, and a private citizen testified as **proponents** of the bill. The proponents stated the bill would foster greater communication between agencies and maximize resources for juveniles and their families.

Written-only proponent testimony was provided by representatives of the Association of Community Mental Health Centers of Kansas (ACMHCKS); Kansas Association of Chiefs of

Police, Kansas Peace Officers Association, and Kansas Sheriffs Association; TFI Family Services, Inc.; and a private citizen.

A representative of KDOC and DCF provided written-only neutral testimony.

Opponent testimony was provided by a representative of Kansas Appleseed and four private citizens. The opponents generally stated that studies have proven more detention for juveniles is detrimental to their future, and many juveniles get held in contempt of court for angering the adults involved in the court system.

Written-only opponent testimony was provided by representatives of American Civil Liberties Union of Kansas, Destination Innovation, Inc., Justice Action Network, Juvenile Law Center, Kansas Advisory Group Executive Committee, and The Gault Center.

The House Committee amended the bill to remove technical violations of probation from those instances when a judge may commit a juvenile to detention for a probation violation. [Note: The Conference Committee retained this amendment.] Additionally, the Committee amended the bill to allow KDOC to contract with an entity for the electronic record system, and the system would include a verification system operated by KDOC to verify authenticity and validity of electronic records. [Note: The Conference Committee retained this amendment.]

Senate Committee on Judiciary

In the Senate Committee hearing on March 8, 2023, the Sedgwick County District Attorney, a private citizen, and representatives of the Board of Sedgwick County Commissioners, CAK, FosterAdopt Connect, KACSO, KVC Kansas, O'Connell Children's Shelter, Saint Francis Ministries, and TFI Family Services provided **proponent** testimony substantially similar to the testimony provided to the House Committee.

Written-only proponent testimony was provided by a representative of ACMHCKS, a representative of the Kansas Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association, and a private citizen.

On March 9, 2023, the Senate Committee continued the hearing on the bill. **Opponent** testimony, substantially similar to the testimony provided to the House Committee, was provided by a retired district court judge, a private citizen, and representatives of Kansas Appleseed Center for Law and Justice and Progeny Kansas.

Written-only opponent testimony was provided by representatives of the American Civil Liberties Union of Kansas, Juvenile Justice Oversight Committee, Juvenile Law Center, Kansas Advisory Group, and Progeny & Destination Innovation, and The Gault Center.

Written-only neutral testimony was provided by representatives of DCF, Kansas Children's Service League, and KDOC.

- The Senate Committee amended the bill to:
- Remove a new section of law requiring the Secretary of Corrections and Secretary for Children and Families to enter into memorandums of understanding to coordinate

certain risk and needs assessments; [*Note: The Conference Committee did not retain this amendment.*]

- Revert sections of law in the Juvenile Code concerning:
 - Sentencing alternatives and overall case length limits [*Note: The Conference Committee retained this amendment.*];
 - Community-based graduated responses for technical violations of probation, conditional release, and conditions of sentence to current law [*Note: The Conference Committee did not retain this amendment.*];
- Revert a section of law concerning KDOC's authority to exchange confidential data in the juvenile justice system to current law [*Note: The Conference Committee did not retain this amendment.*];
- Remove language referencing risk and needs assessments that would no longer be required by the bill [*Note: The Conference Committee did not retain this amendment.*];
- Expand the list of providers that may administer evidence-based community programs and practices [*Note: The Conference Committee retained this amendment.*];
- Clarify available funding in the Account to develop and implement a statewide grant program by the Secretary of Corrections would be determined after other expenditures for evidence-based programs are made [*Note: The Conference Committee retained this amendment.*]; and
- Add a provision stating child welfare case management providers would not be eligible to receive grants through the Account [*Note: The Conference Committee retained this amendment.*].

HB 2033 (Changing the criteria used to refer and admit juveniles to a juvenile crisis intervention center)

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Owens.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on January 23, 2023, representatives of Johnson County Mental Health Center and Children's Alliance of Kansas provided **proponent** testimony, stating the bill would allow for more interventions for youth in crisis and close a gap between youth exhibiting "severe behaviors" and receiving services.

The Deputy Secretary for Children and Families and for Aging and Disability Services provided written-only **proponent** testimony stating the definition will provide flexibility for juvenile crisis intervention centers to serve youth. No other testimony was provided.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing on March 6, 2023, the Deputy Secretary for Children and Families and for Aging and Disability Services and representatives of the Children's Alliance of Kansas and Johnson County Mental Health Center provided written-only **proponent** testimony, generally stating that replacing the definition of "mental health" with "behavioral health" will provide flexibility for juvenile crisis intervention centers to serve youth with in a behavioral health crisis, including substance use disorder.

Opponent testimony was provided by a private citizen who stated the term "behavioral health crisis" and "substance use related services" were too broadly defined and could result in violations of both natural and constitutional rights, as pertaining to the seizure of individuals, their detainment, assessment, and billable treatment.

No other testimony was provided.

The Senate Committee amended the bill to correct the alphabetical order of definitions. [Note: The Conference Committee did not retain this amendment.]

Fiscal Information

HB 2021

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDOC indicates enactment of the bill would require additional costs that the agency is unable to estimate. Additional expenditures would come from training DCF staff to administer risk and needs assessments, additional children served by funded grant programs, increased sentence lengths resulting in increased community corrections caseloads, design and development of new information technology systems or additional functionality to current systems, and increased administrative costs for staffing to manage more grants and grantees. The additional expenditures would be paid from the current balance of the Account or a new State General Fund appropriation if the Account balance is unavailable.

DCF indicates enactment of the bill would not increase agency expenditures for the risk and needs assessment tool since it is available from KDOC. If the use or licensing of the risk and needs assessment tool is required, then the agency indicates that approximately 600 youth would be affected, and the associated costs would be added to the foster care program budget as part of the consensus caseload budget process. It is estimated that those increases could range between \$6,000 to \$15,000 per family from all funding sources, including \$3,000 to \$7,500 from the State General Fund.

The Office of Judicial Administration indicates enactment of the bill could potentially increase expenditures due to the increase in workload for court services officers to perform risk and needs assessments and any associated costs for providing the assessments. The Office could not estimate a fiscal effect.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

HB 2033

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill would have negligible fiscal effect on the Judicial Branch and no fiscal effect on the Department of Health and Environment, Department for Children and Families, or Department of Corrections. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Evidence-based program accounts; juvenile justice; behavioral health crisis

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