

Juvenile Justice System; SB 367

SB 367 creates and amends law related to the Kansas juvenile justice system, as follows.

Case, Probation, and Detention Length Limits

Effective July 1, 2017, the bill establishes the following overall case length limits for juvenile offenders to remain under the jurisdiction of the court:

- For misdemeanors, up to 12 months;
- For low-risk and moderate-risk offenders adjudicated for a felony, up to 15 months (subject to provision below); and
- For high-risk offenders adjudicated for a felony, up to 18 months (subject to provision below).

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

If a juvenile is adjudicated for multiple counts, the maximum overall case length is calculated based on the most severe count or any other count at the court's discretion. Multiple adjudicated counts will not be run consecutively. If a juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

Once the overall case length limit expires, the court's jurisdiction terminates and may not be extended.

The court shall establish a specific probation term based on the most serious adjudicated count and the results of the risk and needs assessment, and the probation term may not exceed the overall case length limit. The bill establishes the following probation length limits:

- Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony, up to 6 months;
- High-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony, up to 9 months; and
- High-risk offenders adjudicated for a felony, up to 12 months.

Probation may be extended if a juvenile needs time to complete an evidence-based program determined to be necessary based on the results of a validated risk and needs assessment. Probation also may be extended for good cause, as follows:

- For up to one month for low-risk offenders;
- For up to three months for moderate-risk offenders; and
- For up to six months for high-risk offenders.

The bill requires data regarding probation extensions to be recorded and reported quarterly to the Kansas Juvenile Justice Oversight Committee (described below), which is required to study the use and effectiveness of the probation extensions.

Prior to the initial extension, the court is required to find and enter into the written record the criteria permitting extension. Extensions will be granted incrementally and may not exceed the overall case length limit.

The probation term limits do not apply to adjudications for any off-grid crime, rape, aggravated criminal sodomy, or second-degree murder. Offenders with these adjudications may be placed on probation for a term consistent with the overall case length limit.

The court is required to establish a specific term of detention when placing a juvenile in detention, which may not exceed the overall case length limit. There is a cumulative detention limit of 45 days over the course of the offender's case, except there is no cumulative detention limit for juveniles adjudicated for an off-grid felony or nondrug severity level 1 through 4 person felony.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Graduated Responses for Technical Violations

The bill requires the Kansas Department of Corrections (KDOC) to consult with the Supreme Court in adopting rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical probation violations, conditional release violations, and sentence condition violations to be used by community supervision officers. The responses shall include sanctions that are swift and certain to address violations based on the severity of the violation and incentives to encourage positive behaviors, while taking into account the juvenile's risks and needs.

Community supervision officers shall use these responses based upon the results of a risk and needs assessment of the juvenile. A technical probation violation may be considered by the court for revocation only if it is a third or subsequent technical violation, there are prior documented failed responses, and the community supervision officer has determined and documented that graduated responses will not suffice. Unless the juvenile poses a significant risk of physical harm to another or damage to property, the community supervision officer shall issue a summons rather than request a warrant for such a violation. The statute governing issuance of warrants to take a juvenile into custody is amended, effective July 1, 2017, to reflect this limitation on warrants, to remove a reference to placement, and to specify that the warrant's designation of where the juvenile is to be taken is to be made pursuant to the statute governing the procedure for taking a juvenile into custody.

The community supervision officer responsible for oversight of a juvenile on probation is required to develop a case plan with the juvenile and the juvenile's family. The Department for Children and Families (DCF) and the local board of education may participate in the development of the case plan when appropriate. The case plan shall incorporate the results of the risk and needs assessment, referrals to programs, and documentation of violations and graduated responses, and it shall clearly define the role of each person or agency working with the juvenile. If the juvenile is later committed to the custody of the Secretary of Corrections (Secretary), the case plan will be shared with the juvenile correctional facility (JCF).

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Reintegration Plan

Effective July 1, 2017, if the court places a juvenile outside the home at a dispositional hearing and no reintegration plan is part of the record of the hearing, a written reintegration plan shall be prepared by the person with custody (or, if directed by the court, a community supervision officer) and submitted to the court within 15 days of the initial order of the court. If the persons necessary for the success of the plan do not agree, the person or entity with custody is required to notify the court and the court shall set a hearing.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Immediate Intervention; Multidisciplinary Team; Alternative Means of Adjudication

Effective January 1, 2017, a court must appoint a multidisciplinary team to review cases where a juvenile fails to substantially comply with the development of the immediate intervention plan. This team may be a standing team or may be appointed for a specific juvenile. The Supreme Court must appoint a multidisciplinary team facilitator in each judicial district, and may appoint a convener and facilitator for a multiple-district multidisciplinary team.

The team facilitator must invite the following to be part of the team: the juvenile; the juvenile's parents, guardians, or custodial relative; the superintendent of schools or designee; a clinician who has training and experience coordinating behavioral or mental health treatment for juveniles, if such clinician is available; and any other person or agency representative who is needed to assist in providing recommendations for the particular needs of the juvenile and family. Any invited person may decline to serve and will incur no civil liability for declining.

Effective January 1, 2017, KDOC must collaborate with the Office of Judicial Administration (OJA) to develop standards and procedures to guide the administration of an immediate intervention process and programs and alternative means of adjudication, including contact requirements, parent engagement, graduated response and discharge requirements, and process and quality assurance.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Youth Residential Facilities

Effective January 1, 2018, the Secretary of Corrections may contract for up to 50 non-foster home beds in youth residential facilities for placement of juvenile offenders under certain circumstances specified elsewhere in the bill (and described later in this summary). The Secretary is directed to contract with facilities that have high success rates and that decrease recidivism rates, consider contracting for bed space across the entire state, and give priority to existing facilities that are able to meet the Secretary's requirements.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Kansas Juvenile Justice Oversight Committee

The bill establishes the Kansas Juvenile Justice Oversight Committee to oversee the implementation of reforms in the juvenile justice system. The Oversight Committee's 19 members are the Governor or designee; one Representative appointed by the Speaker of the House; one Representative appointed by the House Minority Leader; one Senator appointed by the Senate President; one Senator appointed by the Senate Minority Leader; the Secretary of Corrections or designee; the Secretary for Children and Families or designee; the Commissioner of Education or designee; the KDOC Deputy Secretary of Juvenile Services or designee; the KDOC Director of Community-Based Services or designee; two district court judges appointed by the Chief Justice; one chief court services officer appointed by the Chief Justice; one member of the OJA appointed by the Chief Justice; one juvenile defense attorney appointed by the Chief Justice; one juvenile crime victim advocate appointed by the Governor; one member of a local law enforcement agency appointed by the Attorney General; one attorney from a prosecuting attorney's office appointed by the Attorney General; and one member from a community corrections agency appointed by the Governor. The bill requires these appointments be made by September 1, 2016, and the Committee must meet within 60 days of appointment and at least quarterly thereafter. The Committee shall select a chairperson and vice-chairperson, with ten members constituting a quorum. Appointed members of the Committee shall serve two-year terms and be eligible for reappointment. KDOC staff shall provide assistance as requested by the Committee and provide administrative assistance to facilitate the organization of the Committee's meetings.

The Committee is charged with various duties related to the performance, evaluation, and improvement of the juvenile justice system, and it must issue an annual report containing specified information to the Governor, Senate President, Speaker of the House, and Chief Justice on or before November 30, beginning in 2017.

The bill requires KDOC and the Committee to explore methods of exchanging confidential data among all parts of the juvenile justice system under certain conditions and constraints specified by the bill. KDOC is authorized to use grant funds, allocated state funds, or any other accessible funding necessary to create a data exchange system. All state and local programs involved in the care of juveniles involved in the juvenile justice system or the child in need of care system must cooperate in the development and utilization of such system.

Training

The bill requires KDOC, in conjunction with the OJA, to provide not less than semi-annual training on evidence-based programs and practices. This training is mandatory for all individuals who work with juveniles adjudicated or participating in an immediate intervention, including community supervision officers, juvenile intake and assessment workers, juvenile corrections officers, and any individual who works with juveniles through a contracted organization providing services to juveniles.

OJA must designate or develop a training protocol for judges, county and district attorneys, and defense attorneys who work in juvenile court. OJA must provide annual reports to the Legislature and to the Oversight Committee with data regarding completion of this training, including the number of judges and attorneys listed above who did and did not complete the training.

The Attorney General must collaborate with the Kansas Law Enforcement Training Center and the State Board of Education to promulgate rules and regulations by January 1, 2017, creating skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system. Such training must include information on adolescent development, risk and needs assessments, mental health, diversity, youth crisis intervention, substance abuse prevention, trauma-informed responses, and other evidence-based practices in school policing to mitigate student juvenile justice exposure. The superintendent (or designee) of each school district and any law enforcement officer assigned primarily to a school must complete this training.

Immediate Intervention Development / Grants

Effective January 1, 2017, KDOC must create a plan and provide funding to incentivize the development of immediate intervention programs. Funds allocated for such plan may be used only to make grants to immediate intervention programs that adhere to the standards and procedures for such programs developed pursuant to the bill, and must be based on the number of persons served and other requirements established by KDOC. The plan may include requirements for grant applications, organizational characteristics, reporting and auditing criteria, and other eligibility and accountability standards.

The bill adds “community-based alternatives to detention” to the list of purposes for which the Secretary may make grants to counties for juvenile community corrections services.

Funds

The bill renames the Juvenile Detention Facilities Fund the “Juvenile Alternatives to Detention Fund” and changes its purpose from the retirement of debt of facilities for the detention of juveniles or the construction, renovation, remodeling, or operational costs of facilities for the detention of juveniles to the development and operation of community-based alternatives to detention. The definition of “operational costs” is amended to include the costs of operating community-based alternatives to detention for juveniles. The bill amends statutes related to driver’s license exam fees, reinstatement fees for failure to comply with a traffic

citation, municipal court costs, and municipal court assessments to reflect the change to the Fund's name.

The bill also creates the Kansas Juvenile Justice Improvement Fund, to be administered by KDOC. All expenditures from the Improvement Fund shall be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including juvenile intake and assessment, court services, and community corrections. On or before June 30 of each year, the Secretary must determine and certify to the Director of Accounts and Reports the amount in each account of the State General Fund of a state agency that the Secretary has determined is an actual or projected cost savings due to cost avoidance from decreased reliance on incarceration in a JCF or youth residential center (YRC) placement, with a baseline calculated on the cost of incarceration and placement in FY 2015. This certified amount shall then be transferred to the Improvement Fund. Prioritization of moneys from the Fund shall be given to regions demonstrating a high rate of out-of-home placement of juvenile offenders *per capita* that have few existing community-based alternatives. During FY 2017 and FY 2018, the Secretary shall transfer an amount not to exceed \$8,000,000 from appropriated moneys, from any available special revenue fund, or from funds budgeted for the purposes of facilitating the development and implementation of new community placements in conjunction with the reduction in out-of-home placements. The Fund and any moneys transferred pursuant to this section may be used only for the purposes of the section, and the bill states the Legislature's intent that the Fund and Fund moneys remain intact and inviolate for the purposes set forth in this section.

The bill amends statutes governing allotments and percentage reductions by the Governor to exempt the Fund from the provisions of those statutes.

Community Integration Programs

KDOC must develop, for use by the courts, community integration programs for juveniles who are ready to transition to independent living. These programs shall be designed to prepare juveniles to become socially and financially independent from such program.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Earned Time and Earned Discharge

The statute governing computation of sentence is amended to incorporate the addition of overall case length limits and to require earned time calculations be incorporated in sentence calculation. New law requires the Secretary of Corrections to promulgate rules and regulations by January 1, 2017, regarding earned time calculations for purposes of determining a juvenile's release date.

The Supreme Court must consult with KDOC to establish rules for a system of earned discharge for juvenile probationers, to be applied by all community supervision officers. Earned discharge credits will be awarded to a probationer for each full calendar month of compliance with terms of supervised probation, pursuant to these rules.

Supervision Fee

The bill removes a provision prohibiting early release from supervision until the supervision fee has been paid.

Code for Care of Children Amendments

Effective July 1, 2019, various statutes within the Revised Kansas Code for Care of Children (CINC Code) are amended to remove “juvenile detention facility” (JDF) from the definition of “secure facility.” Juvenile detention facilities are removed as a placement option under the CINC Code, unless the child also is alleged to be a juvenile offender and the placement is authorized under the Juvenile Code.

Juvenile Code Amendments

The bill makes numerous amendments to various statutes within the Revised Kansas Juvenile Justice Code (Juvenile Code). [*Note: Some of the additions and amendments made to the juvenile code by the bill are discussed under other headings related to specific topics, rather than under this heading.*]

Definitions

The definitions section of the Juvenile Code is amended to:

- Add definitions for “community supervision officer,” “detention risk assessment tool,” “evidence-based,” “graduated responses,” “immediate intervention,” “overall case length limit,” “probation,” “reintegration plan,” “secretary,” and “technical violation”;
- Amend definitions for “institution,” “juvenile intake and assessment worker,” “juvenile offender,” and “risk assessment tool” (changing its title to “risk and needs assessment” and amending the definition);
- Amend various definitions to update statutory references or change references to reflect the assumption of the duties of the Juvenile Justice Authority (JJA) and the Commissioner of Juvenile Justice by KDOC and the Secretary of Corrections, pursuant to 2013 Executive Reorganization Order No. 42; and
- Remove the definition for “sanctions house.”

Jurisdiction

Effective July 1, 2017, the statute governing jurisdiction is amended to add the overall case length limit and to remove order of assignment to community corrections as events that will end the court’s jurisdiction, and to modify another event from conviction of a new felony while incarcerated in a JCF to conviction of a crime as an adult. The term “aftercare” is changed to

“conditional release.” The bill replaces a provision prohibiting continued placement of a juvenile as a child in need of care if adjudicated for a felony or a second or subsequent misdemeanor with a provision requiring the Secretary for Children and Families to address issues of abuse and neglect by parents and prepare parents for the child’s return home and requiring court services, community corrections, and KDOC to address the risks and needs of the juvenile offender according to the risk and needs assessment. The Secretary for Children and Families must collaborate with KDOC to furnish services ordered in the child in need of care proceeding during the time of any placement in the custody of the Secretary of Corrections.

Juvenile Offender Information

Effective July 1, 2017, the definition of “juvenile offender information” (for the purposes of reporting to the central repository by juvenile justice agencies) is amended to specify certain data that must be included related to the use of the detention risk assessment tool, individual-level data for juveniles on probation, costs for juveniles on probation, individual-level data regarding juvenile filings, risk and needs assessment override data, violation data for juveniles on probation, and certain information for juveniles in immediate intervention plans.

Juvenile Taken into Custody

Effective January 1, 2017, the statute governing when and how a juvenile may be taken into custody is amended to remove the current authority given a court services officer, juvenile community corrections officer, or other person authorized to supervise juveniles to take a juvenile into custody when there is probable cause to believe the juvenile has violated a term of probation or placement. The authority of these officers to arrest a juvenile or request a juvenile’s arrest without a warrant for violation of a condition of release is removed and replaced with authority to request a warrant by giving the court a written statement that the juvenile has violated a condition of conditional release from detention or probation for the third or subsequent time and that the juvenile poses a significant risk of physical harm to another or damage to property. An existing provision directing that a juvenile taken into custody be brought to an intake and assessment worker, before the court, or to another designated official or facility is replaced with a provision directing that the juvenile be brought to the custody of the juvenile’s parent or other custodian, unless there are reasonable grounds to believe such action would not be in the best interests of the child or would pose a risk to public safety or property. If the juvenile cannot be so delivered, the officer may issue a notice to appear or contact and deliver the juvenile to an intake and assessment worker for completion of the intake and assessment process. Provisions giving certain officials and workers discretionary authority to release the juvenile in the absence of court order or upon completion of the intake and assessment process are changed to make release mandatory. A provision allowing a person 18 years of age or older taken into custody for a juvenile offense to be detained in jail if detention is necessary is changed to permit such detention only if the person is eligible for detention and all suitable alternatives have been exhausted.

This statute is further amended by adding provisions allowing a law enforcement officer who detains a juvenile who is not immediately taken to juvenile intake and assessment services (intake and assessment) to serve a written notice to appear on the juvenile that includes specified information, including the location and phone number of the intake and assessment office where the juvenile will need to appear. The juvenile or a parent or guardian must contact the intake and assessment office specified in the notice within 48 hours, excluding weekends

and holidays. Before release, the juvenile must give a written promise to call within the specified time by signing the notice. The officer shall retain the original notice and a copy shall be given to the juvenile and a parent or guardian, and then the juvenile shall be released. The officer must cause a complaint to be filed with juvenile intake and assessment services charging the crime stated in the notice to appear, with a copy to be provided to the district or county attorney. If the juvenile fails to contact intake and assessment as required in the notice to appear, intake and assessment must notify the district or county attorney. The bill allows the notice to appear and the complaint to be provided to the juvenile in a single citation.

Criteria for Detention

Effective January 1, 2017, the existing criteria for detention and removing a child from the custody of a parent are replaced with the following criteria: a court may not order removal from a parent's custody without first finding that a detention risk assessment has assessed the juvenile as detention-eligible, or there are grounds to override the results of the detention risk assessment and the court finds probable cause that community-based alternatives to detention are insufficient to secure the presence of the juvenile at the next hearing (as shown by the record) or protect the safety of another person or property. The court must state the basis for these findings in writing. Community-based alternatives to detention may include release on a promise to appear; release to a parent, guardian, or custodian upon the youth's assurance; release with reasonable restrictions; release to a voluntary or mandatory court-ordered community supervision program; or release with electronic monitoring with various levels of restriction. Placement in a juvenile detention center is prohibited where it is due solely to a lack of supervision alternatives or service options; a parent avoiding legal responsibility; a risk of self-harm; contempt of court; violation of a valid court order; or technical violations of conditional release, unless there is probable cause 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.

Placement in Jail

Effective January 1, 2017, the statute prohibiting placement in a jail except under certain specified circumstances is amended to make it subject to the statutes governing criteria for detention and procedures when a juvenile is taken into custody. Under the provisions of this bill, those statutes permit placement in a jail only for a person over the age of 18 who is eligible for detention, when all suitable alternatives have been exhausted. The statute also is amended to remove a reference to youth residential facilities.

Extended Detention; Hearings

Effective July 1, 2017, the statute governing extended detention and detention hearings is amended to narrow the justification for extended detention to the criteria listed in the statute setting forth the criteria for detention. The bill adds detention risk assessment tool results to the evidence that may be considered by the court at the detention hearing and requires the court to record any reasons for overriding a detention risk assessment tool score. A provision allowing temporary custody where the court determines detention is not necessary but release to the custody of a parent would not be in the best interests of the juvenile is removed. A provision is

added requiring a detention review hearing at least every 14 days that a juvenile is in detention, except for juveniles charged with an off-grid felony or nondrug severity level 1 through 4 felony.

First Appearance and Immediate Intervention

Effective January 1, 2017, the statute governing the first appearance is amended to require that a juvenile appearing without an attorney be informed of the right to be offered an immediate intervention.

Immediate Intervention

Effective January 1, 2017, the statute governing immediate intervention programs is amended to replace a provision allowing a county or district attorney to adopt a policy and establish guidelines for an immediate intervention program with a requirement that the director of juvenile intake and assessment services collaborate with the county or district attorney to adopt a policy and establish guidelines for an immediate intervention process, which may include information on offenders beyond those required by the statute. The court, county or district attorney, director, and other relevant individuals or organizations must develop local programs for certain purposes. (Under prior law, the court, county or district attorney, and director were allowed to develop local programs at their discretion.) The list of purposes for such programs is amended to include direct referral of cases to immediate intervention, rather than to certain other programs; require juvenile intake and assessment services, rather than the county or district attorney, to adopt policies and guidelines for issuance of summons; allow immediate intervention program providers to directly purchase services for the juvenile and juvenile's family; and remove conditions on an intake and assessment worker's release of a juvenile prior to a detention hearing.

The statute is further amended by removing limitations on eligibility for immediate intervention programs and a provision regarding a stipulation of facts. A provision is added requiring a juvenile who goes through the intake and assessment process be offered the opportunity to participate in an immediate intervention program and avoid prosecution if the juvenile is charged with a misdemeanor or unlawful voluntary sexual relations, has no prior adjudications, and the offer is made pursuant to guidelines developed under this statute. A juvenile with fewer than two prior adjudications may also participate in such a program if referred for immediate intervention by the county or district attorney after review of the case to determine if the case should be referred for immediate intervention or designation for alternative means of adjudication. The county or district attorney must consider any recommendation of a juvenile intake and assessment worker, court services officer, or community corrections officer.

A juvenile referred to immediate intervention must work with court services, community corrections, juvenile intake and assessment services, or any other designated entity to develop an immediate intervention plan, which may be supervised by any of these entities or unsupervised. The county or district attorney's office is not required to supervise juveniles participating in an immediate intervention program. The plan may last no longer than six months from the date of referral, unless it requires completion of a mental health or substance abuse evidence-based program that extends longer, in which case the plan may be extended up to two additional months. Upon satisfactory compliance with the plan, the juvenile shall be discharged and the charges dismissed at the end of the plan period. If the juvenile fails to satisfactorily comply with the plan, the case will be referred to a multidisciplinary team for review within seven

days, and the team may revise and extend the plan or terminate the case as successful. The plan may be extended for no more than four additional months. If the juvenile fails to satisfactorily comply with the revised plan, the intake and assessment worker, court services officer, or community corrections officer overseeing the immediate intervention shall refer the case to the county or district attorney for consideration.

Prosecution as an Adult and Extended Juvenile Jurisdiction Prosecution

The statute governing prosecution as an adult and extended juvenile jurisdiction is amended to limit the option to designate a proceeding as an extended jurisdiction juvenile prosecution (EJJP) to cases involving an off-grid felony or a nondrug severity level 1 through 4 person felony. A provision placing the burden of proof on the juvenile to rebut EJJP in certain cases is removed. The bill replaces a provision requiring good cause be shown to prosecute a juvenile as an adult with a requirement that the presumption that a juvenile is a juvenile be rebutted by a preponderance of the evidence. The age for adult prosecution of a juvenile is raised from 12 to 14. The bill removes existing presumptions that a juvenile is an adult based upon certain ages, crime severity levels, or other factors. Provisions allowing a juvenile to be bound over to the district judge where there is probable cause a felony has been committed and attaching authorization for prosecution as an adult to future prosecutions upon conviction are removed.

The statute governing sentencing for EJJP and options upon violation of a condition of a juvenile sentence under EJJP is amended to stay the execution of an adult criminal sentence on the condition the juvenile substantially comply with the juvenile sentence, rather than on the condition the juvenile not violate the juvenile sentence. A provision allowing revocation of the stay and juvenile sentence without notice is removed, and a revocation hearing is required in all cases.

Other statutes are amended to reflect the changes to EJJP.

Post-Adjudication Orders and Hearings

The statute governing post-adjudication orders and hearings is amended to require the court to order one or more of the tools listed in the section unless information from a risk and needs assessment is available. The bill adds a provision giving the court authority to compel an assessment by the Secretary for Aging and Disability Services if a psychological or emotional evaluation of the juvenile indicates the juvenile requires acute inpatient mental health or substance abuse treatment, and the results of this assessment may inform a treatment and payment plan pursuant to the same eligibility process for non-court-involved youth. The bill requires a summary of the results from a risk and needs assessment be provided to the court post-adjudication and predisposition to be used to inform supervision levels. OJA and KDOC must adopt a single, uniform risk and needs assessment to be used across the state. Cutoff scores to determine risk levels for juveniles shall be established by OJA and the Secretary, in consultation with the Oversight Committee, and training on the assessment is required for all administrators. The bill requires data to be collected on the results of the assessment to inform a validation study on the Kansas juvenile justice population to be conducted by June 30, 2020.

Sentencing Alternatives

Effective July 1, 2017, the statute governing sentencing alternatives is amended to require a sentencing alternative be imposed for a fixed period (which may not extend beyond the overall case length limit) pursuant to the placement matrix and the probation terms set by the bill. A provision regarding findings and determinations made pursuant to statutes repealed by the bill is removed.

The sentencing alternatives are amended as follows:

- The probation alternative is made subject to the new probation provisions established by the bill and requires any juvenile placed on probation be supervised according to the results of the risk and needs assessment. Placement of juveniles to community corrections for probation supervision is limited to juveniles who are determined to be moderate, high, or very high risk on an assessment using the cutoff scores established by the Secretary and OJA;
- The alternative to place the juvenile in the custody of a parent or other suitable person is amended to exclude placement in a group home or other licensed child care facility;
- The alternative to place the child in the custody of the Secretary of Corrections for placement and permanency planning is amended to sunset on January 1, 2018;
- The sanctions house alternative is changed to commitment to detention for no longer than 30 days for a violation of a non-technical condition of sentence; and
- The alternative to commit the juvenile to confinement in a JCF is amended to allow placement in a JCF or a youth residential facility. (Placement in a youth residential facility is subject to a rebuttable presumption created in the placement matrix statute, discussed below.) This alternative also is amended to require the judge to make a written finding that the juvenile poses a significant risk of harm to another or damage to property. The juvenile must otherwise be eligible for commitment under the placement matrix, and an order for a period of conditional release is changed from mandatory to the court's discretion. Conditional release is limited to a maximum of six months and subject to graduated responses. A provision requiring a permanency hearing within seven days after the juvenile's release is removed.

The required use of a risk assessment tool is expanded to all sentencing, and the bill requires the results of the assessment be used to inform orders made pursuant to the placement matrix or the new probation provisions. Provisions related to commitment to a sanctions house are changed to provisions for detention. Commitment to detention is limited to violation of sentencing conditions where all other alternatives have been exhausted, and the court must find the juvenile poses a significant risk of harm to another or damage to property, is charged with a new felony offense, or violates conditional release. Detention will not be permitted for solely technical violations of probation, contempt, a violation of a valid court order,

to protect from self-harm, or due to any state or county failure to find adequate alternatives. Cumulative detention use is limited to a maximum of 45 days and the overall case length, pursuant to the new provisions of the bill set forth above.

Provisions are added to this section allowing the court to order a short-term alternative placement of a juvenile in an emergency shelter, therapeutic foster home, or community integration program if the juvenile has been adjudicated of aggravated human trafficking, rape, commercial sexual exploitation of a child, sexual exploitation of a child, aggravated indecent liberties with a child (if the victim is less than 14 years of age), or an attempt of one of those offenses, and the victim resides in the same home as the juvenile; a community supervision officer in consultation with DCF determines an adequate safety plan (including the physical and psychological well-being of the victim) cannot be developed to keep the juvenile in the same home; and there are no relevant child in need of care issues that would permit a case to be filed under the CINC Code. The presumptive term of commitment shall not extend beyond three months and the overall case length, but may be modified. If a child is placed outside the child's home under this provision, and no reintegration plan is made a part of the hearing records, a written reintegration plan must be prepared and submitted to the court within 15 days of the initial order of the court.

Finally, a provision is added to this section requiring the court to calculate the overall case length limit and enter this limit into the written record when one or more of the sentencing options in the section are imposed.

Modification of a Sentence

The statute governing modification of a sentence is amended to make any modified sentence subject to the overall case length limit created by the bill. Provisions setting forth the procedure for a court to rescind an order granting custody to a parent are replaced with a provision allowing the court, if it determines there is probable cause to believe that the juvenile is a child in need of care, to refer the matter to the county or district attorney to file a child in need of care petition and to refer the family to DCF for services. A provision is added allowing the court to authorize participation in a community integration program, if it finds the juvenile needs a place to live but there is not probable cause that the child is a child in need of care, or if the child is emancipated or over the age of 17.

Placement Matrix

Effective July 1, 2017, the placement matrix for commitment to a JCF is amended to require a written finding before such placement that the juvenile poses a significant risk of harm to another or damage to property. A departure sentence provision is removed, and the term of commitment is made subject to the overall case length limit.

The serious offender I category is amended to remove nondrug severity level 5 and 6 person felonies and drug severity level 1 through 3 felonies and place these into a new serious offender II category, for which an offender may be committed for a term of 9 to 18 months with no aftercare.

The existing serious offender II category becomes serious offender III, and the permissible term of commitment for this category is lowered from 9-18 months to 6-12 months. Aftercare is removed and commitment is allowed only if a juvenile is assessed as high-risk.

The existing serious offender III category becomes serious offender IV, and the permissible term of commitment is lowered from 9-18 months to 6-12 months. Aftercare and departure provisions are removed and a commitment is allowed only if a juvenile is assessed as high-risk.

The chronic offender I category is amended to lower the maximum permissible term from 18 to 12 months, remove aftercare and departure provisions, and allow commitment only if a juvenile is assessed as high-risk.

The chronic offender II and III categories are removed.

The bill establishes a rebuttable presumption that all offenders in the chronic offender category and offenders between 10 and 14 years of age in the serious offender II, III, or IV categories shall be placed in the custody of the Secretary for placement in a youth residential facility instead of placement in a JCF. The presumption may be rebutted by a finding on the record that the juvenile offender poses significant risk of physical harm to another.

Conditional release provisions are amended to allow the court to order a period of conditional release limited to six months and subject to graduated responses, with a presumption upon release that the juvenile shall be returned home, unless the case plan recommends a different reentry plan. The bill removes commitment to a JCF as an option upon violation of the requirements of conditional release and changes a reference to “sanctions” to “detention.”

The bill removes the definition of “placement failure” and a provision allowing a juvenile committed to a JCF to be adjudicated to a consecutive term of imprisonment for an offense committed while in the facility.

A provision requiring the Secretary to work with the community is broadened in scope from community placements for chronic offender III to development of evidence-based practices and programs to ensure the JCF is not frequently utilized.

Probation or Placement Condition Violations

Effective July 1, 2017, the statute governing the procedure upon violation of condition of probation or placement is amended to require any report filed by the county or district attorney, the current custodian of the juvenile offender, or the victim of the offense to be filed with the assigned community supervision officer, rather than with the court. The community supervision officer would then review the report before filing to determine whether it is eligible for review by the court. The statute is amended to reflect the requirement for probable cause to believe the juvenile poses a significant risk of physical harm to another or damage to property before a warrant may be issued. Some references to “placement” are removed. The bill's overall case length limit and limits on court review for technical violations are incorporated into the statute. A procedure for removing a juvenile from the custody of a parent is removed.

Departure Sentencing

Effective July 1, 2017, the statute governing departure sentence procedure is amended to limit its application to juveniles sentenced to a JCF as a violent offender and to incorporate by reference the departure sentence limits and provisions contained in the new law regarding overall case length limits and the amendments to the sentencing placement matrix. Accordingly, the bill removes the existing departure limits contained in this section. The bill requires the judge to enter the substantial and compelling reasons for a departure into the written record.

Commitment to a JCF

Effective January 1, 2017, the statute governing commitment to a JCF is amended to add a provision requiring a case plan be developed, with input from the juvenile and the juvenile's family, for every juvenile sentenced to a JCF. For a juvenile committed for violating a condition of sentence, the case plan developed with the community supervision officer shall be revised to reflect the new disposition. DCF, the local school district in which the juvenile offender will be residing, and community supervision officers may participate in the development or revision of the case plan, when appropriate, and the case plan shall incorporate the results of the risk and needs assessment and the program and education to complete while in custody. The case plan must clearly define the role of each person or agency working with the juvenile. The case plan shall include a reentry section, detailing services, education, supervision, or any other elements necessary for a successful transition, as well as information on reintegration of the juvenile into the juvenile's family or, if reintegration is not viable, another viable release option. For a juvenile to be placed on conditional release, the case plan shall be developed with the community supervision officer.

Conditional Release Procedure

Effective July 1, 2017, the statute governing conditional release procedure is amended to allow the person in charge of a JCF to include a specified period of time to complete conditional release, if such release has previously been ordered. A reference to "case management officer" is changed to "supervision officer." A court reviewing the notice of a proposed conditional release must review the terms of any case plan. A provision applicable to acts committed before July 1, 1999, is removed.

Failure to Obey Conditions of Release

Effective July 1, 2017, the statute governing failure to obey conditions of release is amended to incorporate the new prohibition on court consideration of such failure until a third or subsequent failure. The bill requires referral from the supervising officer before the county or district attorney may file a report with the court, and adds a requirement that the juvenile's history of violations be included in the report. The bill removes the option for the court to order, upon finding a condition of release has been violated, that the juvenile be returned to the JCF to serve the incarceration and aftercare term.

Discharge from Commitment

Effective July 1, 2017, the statute governing discharge from commitment is amended to incorporate the maximization of the overall case length limit as a condition requiring discharge of the juvenile by the Secretary.

Notification of Pending Release

Effective July 1, 2017, the statute governing notification of pending release and the procedure by which a county attorney, district attorney, or the court may move to determine if the juvenile should continue to be retained is amended: the bill changes the determination to be made at such hearing from whether the juvenile should be retained to whether the juvenile should be placed on conditional release, if not previously ordered by the court. If the court orders a period of conditional release following the hearing, the supervision of the juvenile shall be limited to six months of conditional release and subject to the overall case length limit. A definition of “maximum term of imprisonment” is removed, as it will not be needed under the new procedures.

Alternative Means of Adjudication

Effective July 1, 2017, the statute governing alternative means of adjudication is amended to change the eligibility for adjudication under the section from a juvenile committing a misdemeanor to a juvenile with fewer than two adjudications. The term “diversion” is changed to “immediate intervention,” and a provision is added allowing a juvenile designated for alternative adjudication to be referred to an immediate intervention program. The bill removes a provision allowing the court, in an alternative adjudication proceeding, to remove a juvenile from the home and place the child in the temporary custody of the Secretary for Children and Families or any person, other than the child’s parent, willing to accept temporary custody. A reference to “placement failure” is removed from a provision regarding use of the adjudication on a subsequent offense.

Further Juvenile Code Statutes Repealed

Effective July 1, 2017, the bill repeals statutes allowing removal of a juvenile from custody of a parent.

Schools

Effective July 1, 2017, the School Safety and Security Act is amended to require boards of education to include in their annual school safety and security reports information regarding arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to criminal acts the school is required to report under continuing law. The bill also adds a requirement that the data in the report include an analysis according to race, gender, and any other relevant information.

The bill further amends the Act to direct the State Board of Education (SBOE) to require that the superintendent of schools (or designee) in each school district develop, approve, and

submit to the SBOE a memorandum of understanding developed in collaboration with relevant stakeholders (including law enforcement agencies, the courts, and the county and district attorneys), establishing clear guidelines for referral of school-based behaviors to law enforcement or the juvenile justice system, with the goal of reducing such referrals and protecting public safety. The SBOE must provide an annual report to KDOC and OJA compiling school district compliance and summarizing the content of each memorandum of understanding.

Statutory provisions governing reporting of certain student behavior to law enforcement, reporting of certain criminal behavior on school property or at a school-supervised activity, powers of campus police officers, and reporting of inexcusable absences from school are amended to make such provisions subject to the terms of the memorandum of understanding.

Juvenile Intake and Assessment

Effective January 1, 2017, the statute governing the juvenile intake and assessment system is amended to require a juvenile intake and assessment worker (worker) to make both release and referral determinations once a juvenile is taken into custody. The bill specifies the worker may collect required information either in person or via two-way audio or audio-visual communication, clarifies that information collected shall be the results from a standardized detention risk assessment tool rather than “a standardized risk assessment tool,” and adds “if detention is being considered for the juvenile.” The list of required information is amended to add “results of other assessment instruments as approved by the Secretary.” The bill removes a provision requiring the worker to believe release of the child to a parent’s, legal guardian’s, or other appropriate adult’s custody is in the best interests of the child and would not be harmful before making such release. The bill specifies additional non-exclusive conditions that may be imposed on conditional release and changes an existing condition from “inpatient treatment” to “outpatient treatment.” Stay in a shelter facility or a licensed attendant care center is limited to a maximum of 72 hours.

Language requiring the Supreme Court to establish a juvenile intake and assessment system is removed, as the system has been established.

The bill adds immediate intervention programs to the possible referrals by the worker and specifies in the continuing option to refer to the county or district attorney that such referral may be made with or without a recommendation for consideration for alternative adjudication or immediate intervention.

The bill replaces a provision allowing the Commissioner of Juvenile Justice to adopt rules and regulations regarding local creation of risk assessment tools with a provision requiring the Secretary of Corrections, in conjunction with OJA, to develop, implement, and validate a statewide detention risk assessment tool. The assessment is required for each youth under consideration for detention and may be conducted only by a trained worker. The Secretary and OJA shall establish cutoff scores to determine eligibility for placement in a JDF or for referral to a community-based alternative to detention. Data regarding the use of the tool must be collected and reported. The bill requires the assessment to include an override function that may be approved by the court for use under certain circumstances so that the worker or the court may override the assessment score to direct placement in a short-term shelter facility, a community-based alternative to detention, or a JDF. The override must be documented, include a written explanation, and receive approval from the director of the intake and assessment

center or the court. If a juvenile is eligible for detention or referral to a community-based alternative to detention, the person with detention authority will retain discretion to release the juvenile if other, less restrictive measures would be adequate.

The bill requires every worker be trained in evidence-based practices, including risk and needs assessment, individualized diversions, graduated responses, family engagement, trauma-informed care, substance abuse, mental health, and special education.

Juvenile Corrections Advisory Boards

The statute governing the membership of juvenile corrections advisory boards is amended to add to the membership a juvenile defense representative, who shall be a practicing juvenile defense attorney in the judicial district and be selected by the judge of the district court who is assigned the juvenile court docket. The requirements of the boards are amended to add adherence to the goals of the Juvenile Code and coordination with the Oversight Committee created by the bill.

The bill creates new law requiring the boards to annually consider the availability of treatment programs, programs creating alternatives to incarceration for juvenile offenders, mental health treatment, and the development of risk assessment tools (if they do not currently exist) for use in determining pretrial release and probation supervision levels. Each board shall provide an annual report by October 1 to KDOC and the Oversight Committee created by the bill detailing the costs of programs needed in the board's judicial district to reduce the out-of-home placement of juvenile offenders and improve the recidivism rate of juvenile offenders.

Technical Amendments

Throughout the bill, technical amendments are made to update or correct statutory cross-references, remove irrelevant dates, and update references to reflect the assumption of the duties of the JJA and the Commissioner of Juvenile Justice by KDOC and the Secretary of Corrections, pursuant to 2013 Executive Reorganization Order No. 42.