

HOUSE BILL No. 2114

AN ACT concerning the joint committee on corrections and juvenile justice oversight; renaming the committee in honor of Representative J. Russell (Russ) Jennings; requiring the committee to monitor the implementation of juvenile justice reform and the work of the juvenile justice oversight committee; amending K.S.A. 46-2801, 65-536 and 74-9101 and repealing the existing sections; also repealing K.S.A. 46-2802.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 46-2801 is hereby amended to read as follows: 46-2801. (a) There is hereby created the joint committee on corrections and juvenile justice oversight ~~which~~. *On and after July 1, 2023, such committee shall be named the J. Russell (Russ) Jennings joint committee on corrections and juvenile justice oversight. The joint committee shall be within the legislative branch of state government and ~~which~~ shall be composed of ~~no~~ not more than seven members of the senate and seven members of the house of representatives.*

(b) The senate members shall be appointed by the president and the minority leader. The two major political parties shall have proportional representation on such committee. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding 0.5 shall receive representation as though such fraction were a whole number.

(c) The seven representative members shall be appointed as follows:

(1) Two members shall be members of the majority party who are members of the house committee on appropriations and shall be appointed by the speaker;

(2) two members shall be members of the majority party who are members of the house committee on judiciary and shall be appointed by the speaker; and

(3) three members shall be members of the minority party who are members of the house committee on appropriations or the house committee on judiciary and shall be appointed by the minority leader.

(d) Any vacancy in the membership of the joint committee ~~on corrections and juvenile justice oversight~~ shall be filled by appointment in the manner prescribed by this section for the original appointment.

(e) All members of the joint committee ~~on corrections and juvenile justice oversight~~ shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. The joint committee shall organize annually and elect a chairperson and vice-chairperson in accordance with this subsection. During odd-numbered years, the chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the senate members elected by the members of the joint committee. During even-numbered years, the chairperson shall be one of the senate members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. If a vacancy occurs in the office of chairperson or vice-chairperson, a member of the joint committee, who is a member of the same house as the member who vacated the office, shall be elected by the members of the joint committee to fill such vacancy. ~~Within 30 days after the effective date of this act, the joint committee shall organize and elect a chairperson and a vice-chairperson in accordance with the provisions of this act.~~

(f) A quorum of the joint committee ~~on corrections and juvenile justice oversight~~ shall be eight. All actions of the joint committee shall be by motion adopted by a majority of those present when there is a quorum.

(g) ~~The joint committee on corrections and juvenile justice oversight~~ may meet at any time and at any place within the state on the call of the chairperson, vice-chairperson and ranking minority member of the house of representatives when the chairperson is a representative or of the senate when the chairperson is a senator.

(h) The provisions of ~~the acts contained in~~ article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee ~~on corrections and juvenile justice oversight~~ to the extent that ~~the same such provisions~~ do not conflict with the specific provisions of this ~~act section~~ applicable to the joint committee.

(i) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee ~~on corrections and juvenile justice oversight~~.

(j) ~~The joint committee on corrections and juvenile justice oversight~~ may introduce such legislation as it deems necessary in performing its functions.

(k) In addition to other powers and duties authorized or prescribed by law or by the legislative coordinating council, the joint committee ~~on corrections and juvenile justice oversight~~ shall:

(1) Monitor the inmate population and review and study the programs, activities and plans of the department of corrections regarding the duties of the department of corrections that are prescribed by statute, including the implementation of expansion projects, the operation of correctional, food service and other programs for inmates, community corrections, parole and the condition and operation of the correctional institutions and other facilities under the control and supervision of the department of corrections;

(2) ~~monitor the establishment of the juvenile justice authority and review and study the programs, activities and plans of the juvenile justice authority regarding the duties of the juvenile justice authority that are prescribed by statute~~ *implementation of juvenile justice reform and the work of the juvenile justice oversight committee created in K.S.A. 75-52,161, and amendments thereto*, including the responsibility for the care, custody, control and rehabilitation of juvenile offenders and the condition and operation of the state juvenile correctional facilities ~~under the control and supervision of the juvenile justice authority~~;

(3) review and study the adult correctional programs and activities and facilities of counties, cities and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities and the condition and operation of jails and other local governmental facilities for the incarceration of adult offenders;

(4) review and study the juvenile offender programs and activities and facilities of counties, cities, school districts and other local governmental entities, including programs for the reduction and prevention of juvenile crime and delinquency, the programs and activities of private entities operating community juvenile programs and facilities and the condition and operation of local governmental residential or custodial facilities for the care, treatment or training of juvenile offenders; *and*

(5) ~~study the progress and results of the transition of powers, duties and functions from the Kansas department for children and families, office of judicial administration and department of corrections to the juvenile justice authority; and~~

(6) make an annual report to the legislative coordinating council as provided in K.S.A. 46-1207, and amendments thereto, and such special reports to committees of the house of representatives and senate as are deemed appropriate by the joint committee.

Sec. 2. K.S.A. 65-536 is hereby amended to read as follows: 65-536. (a) A juvenile crisis intervention center is a facility that provides short-term observation, assessment, treatment and case planning, and

referral for any juvenile who is experiencing a mental health crisis and is likely to cause harm to self or others. Such centers shall:

(1) Address or ensure access to the broad range of services to meet the needs of a juvenile admitted to the center, including, but not limited to, medical, psychiatric, psychological, social and educational services;

(2) not include construction features designed to physically restrict the movements and activities of juveniles, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for juveniles admitted to the center;

(3) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations; and

(4) implement written policies and procedures for staff monitoring of all center entrances and exits.

(b) A juvenile crisis intervention center shall provide treatment to juveniles admitted to such center, as appropriate while admitted.

(c) A juvenile crisis intervention center may be on the same premises as that of another licensed facility. If the juvenile crisis intervention center is on the same premises as that of another licensed facility, the living unit of the juvenile crisis intervention center shall be maintained in a separate, self-contained unit. No juvenile crisis intervention center shall be in a city or county jail or a juvenile detention facility.

(d) (1) A juvenile may be admitted to a juvenile crisis intervention center when:

(A) The head of such center determines such juvenile is in need of treatment and likely to cause harm to self or others;

(B) a qualified mental health professional from a community mental health center has given written authorization for such juvenile to be admitted to a juvenile crisis intervention center; and

(C) no other more appropriate treatment services are available and accessible to the juvenile at the time of admission.

(2) A juvenile may be admitted to a juvenile crisis intervention center for not more than 30 days. A parent with legal custody or legal guardian of a juvenile placed in a juvenile crisis intervention center may remove such juvenile from the center at any time. If the removal may cause the juvenile to become a child in need of care pursuant to K.S.A. 38-2202(d), and amendments thereto, the head of a juvenile crisis intervention center may report such concerns to the department for children and families or law enforcement or may request the county or district attorney to initiate proceedings pursuant to the revised Kansas code for care of children. If the head of a juvenile crisis intervention center determines the most appropriate action is to request the county or district attorney to initiate proceedings pursuant to the revised Kansas code for care of children, the head of such center shall make such request and shall keep such juvenile in the center for an additional 24-hour period to initiate the appropriate proceedings.

(3) When a juvenile is released from a juvenile crisis intervention center, the managed care organization, if the juvenile is a medicaid recipient, and the community mental health center serving the area where the juvenile is being discharged shall be involved with discharge planning. Within seven days prior to the discharge of a juvenile, the head of the juvenile crisis intervention center shall give written notice of the date and time of the discharge to the patient, the managed care organization, if the juvenile is a medicaid recipient, and the community mental health center serving the area where the juvenile is being discharged, and the patient's parent, custodian or legal guardian.

(e) (1) Upon admission to a juvenile crisis intervention center, and if the juvenile is a medicaid recipient, the managed care organization shall approve services as recommended by the head of the juvenile crisis intervention center. Within 14 days after admission, the head of the juvenile crisis intervention center shall develop a plan of treatment for the juvenile in collaboration with the managed care organization.

(2) Nothing in this subsection shall prohibit the department of health and environment from administering or reimbursing state medicaid services to any juvenile admitted to a juvenile crisis intervention center pursuant to a waiver granted under section 1915(c) of the federal social security act, provided that such services are not administered through a managed care delivery system.

(3) Nothing in this subsection shall prohibit the department of health and environment from reimbursing any state medicaid services that qualify for reimbursement and that are provided to a juvenile admitted to a juvenile crisis intervention center.

(4) Nothing in this subsection shall impair or otherwise affect the validity of any contract in existence on July 1, 2018, between a managed care organization and the department of health and environment to provide state medicaid services.

(5) On or before January 1, 2019, the secretary of health and environment shall submit to the United States centers for medicare and medicaid services any approval request necessary to implement this subsection.

(f) The secretary for children and families, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2019.

(g) The secretary for children and families shall annually report information on outcomes of juveniles admitted into juvenile crisis intervention centers to the *J. Russell (Russ) Jennings* joint committee on corrections and juvenile justice oversight, the corrections and juvenile justice committee of the house of representatives and the judiciary committee of the senate. Such report shall include:

(1) The number of admissions, releases and the lengths of stay for juveniles admitted to juvenile crisis intervention centers;

(2) services provided to juveniles admitted;

(3) needs of juveniles admitted determined by evidence-based assessment; and

(4) success and recidivism rates, including information on the reduction of involvement of the child welfare system and juvenile justice system with the juvenile.

(h) The secretary of corrections may enter into memorandums of agreement with other cabinet agencies to provide funding, not to exceed \$2,000,000 annually, from the evidence-based programs account of the state general fund or other available appropriations for juvenile crisis intervention services.

(i) For the purposes of this section:

(1) "Head of a juvenile crisis intervention center" means the administrative director of a juvenile crisis intervention center or such person's designee;

(2) "juvenile" means a person who is less than 18 years of age;

(3) "likely to cause harm to self or others" means that a juvenile, by reason of the juvenile's mental disorder or mental condition is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage;

(4) "treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner; and

(5) "qualified mental health professional" means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, a licensed masters level psychologist, a licensed clinical psychotherapist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, a licensed professional counselor, a licensed clinical professional counselor, a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in

psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

(j) This section shall be *a* part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. K.S.A. 74-9101 is hereby amended to read as follows: 74-9101. (a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including, but not limited to, the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the prisoner review board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including, but not limited to, the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 2022 Supp. 21-6822, and amendments thereto;

(8) prepare and submit *a* fiscal impact and correctional resource statement as provided in K.S.A. 74-9106, and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the

conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;

(15) produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for: (A) Reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: Intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mechanisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each option shall include an assessment of such option's impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1;

(16) at the request of the governor or the *J. Russell (Russ) Jennings* joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission;

(17) develop information relating to the number of offenders on postrelease supervision and subject to electronic monitoring for the duration of the person's natural life;

(18) determine the effect the mandatory sentencing established in K.S.A. 21-4642 and 21-4643, prior to their repeal, or K.S.A. 2022 Supp. 21-6626 and 21-6627, and amendments thereto, would have on the number of offenders civilly committed to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq., and amendments thereto;

(19) assume the designation and functions of the state statistical analysis center. All criminal justice agencies, as defined in K.S.A. 22-4701(c), and amendments thereto, shall provide any data or information, including juvenile offender information, requested by the commission to facilitate the function of the state statistical analysis center;

(20) subject to the provisions of appropriation acts and the availability of funds therefor, produce official juvenile correctional facility population projections annually on or before November 1, not

more than six weeks following the receipt of the data from the ~~juvenile justice authority~~ *secretary of corrections* and develop bed impacts regarding legislation that may affect juvenile correctional facility population;

(21) be authorized to make statewide supervision and placement cutoff decisions based upon the risk levels and needs of the offender. The commission shall periodically review data and make recommended changes;

(22) determine the impact and effectiveness of supervision and sanctions for felony offenders regarding recidivism and prison and community-based supervision populations; and

(23) gather data and information from any state agency to carry out the duties and functions described in this section. Unless otherwise prohibited by law, all state agencies shall provide any data or information requested by the commission to carry out such duties and functions. As used in this paragraph, "state agency" means any state office, officer, department, board, commission, institution, bureau, agency, or authority or any division or unit thereof.

Sec. 4. K.S.A. 46-2801, 46-2802, 65-536 and 74-9101 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.