

- 38-2232. Child under 18 taken into custody; duties of officers; referral of cases for proceedings under this code and interstate compact on juveniles; placed in shelter facility or with other person; application of law enforcement officer; release of child. [See Revisor's Note]** (a) (1) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall forthwith be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child.
- (2) Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall forthwith be delivered to a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary.
- (3) If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2016 Supp. 38-2202, and amendments thereto, the law enforcement officer shall deliver the child to a juvenile detention facility or other secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.
- (4) No child taken into custody pursuant to this code shall be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2016 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.
- (5) It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.
- (b) (1) When any law enforcement officer takes into custody any child as provided in subsection (b)(2) of K.S.A. 2016 Supp. 38-2231, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2016 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.
- (2) When any law enforcement officer takes into custody any child as provided in subsection (b)(3) of K.S.A. 2016 Supp. 38-2231, and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2016 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.
- (c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:
- (1) The name and address of the child, if known;
- (2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and
- (3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.
- (d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.
- (e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless a court has entered an order pertaining to temporary custody or release.
- (f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.
- (g) When any law enforcement officer takes into custody any child as provided in subsection (d) of K.S.A. 2016 Supp. 38-2231, and amendments thereto, the child shall forthwith be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

History: L. 2006, ch. 200, § 27; L. 2009, ch. 99, § 3; L. 2010, ch. 11, § 4; L. 2013, ch. 120, § 33; Jan. 1, 2014.

Revisor's Note:

CAUTION: Section was amended effective July 1, 2019, see L. 2016, ch. 46, § 24.