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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Joint Committee on Corrections and Juvenile Justice Oversight

From: Office of Revisor of Statutes

Date: November 28, 2022

Subject: Juvenile Justice Reform Legislation

2016 SB 367

- A juvenile shall be delivered to the juvenile’s parents or guardians unless there is reason to believe it is not in the best interest of the child or would pose a risk to public safety or property. A juvenile cannot be taken from a parent’s custody unless a detention risk assessment assesses the juvenile as detention-eligible or there are grounds to override the results of the assessment. A juvenile cannot be taken into custody for violation of a term of probation or placement. To obtain a warrant to arrest a juvenile, a supervision officer must set forth that the juvenile has violated a condition of disposition three or more times and poses a significant risk of physical harm to another or damage to property.
- Each director of juvenile intake and assessment services must adopt a policy and establish guidelines for an immediate intervention process. Juveniles have the right to participate in an immediate intervention program.
- Cumulative detention of a juvenile shall be limited to a maximum of 45 days over the course of the juvenile’s case.
- Juveniles shall be presumed to be juveniles, and the presumption can only be rebutted by a preponderance of the evidence. A juvenile must be 14 to be prosecuted as an adult. Extended jurisdiction juvenile prosecution can only be used for juveniles charged with an off-grid or nondrug severity level 1 through 4 person felony.
- The department of corrections working with the supreme court had to adopt a state-wide system of structured community-based graduated responses for technical violations of probation, violations of conditional release and violations of condition of disposition for juveniles. They also were required to develop standards to guide immediate intervention.

- Probation length limits were imposed for juveniles. Low and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for up to six months. High-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for up to nine months. High-risk offenders adjudicated for a felony may be placed on probation for up to 12 months. These probation length limits do not apply to juveniles adjudicated for an off-grid felony, rape, aggravated criminal sodomy or murder in the second degree. The court may extend a term of probation if the juvenile needs time to complete an evidence-based program.
- Overall case length limits were imposed for cases involving juvenile offenders. Juveniles adjudicated for a misdemeanor may remain under court jurisdiction for up to 12 months. Low and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months. High-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months. The overall case length limits do not apply to juveniles adjudicated for off-grid or nondrug severity level 1 through 4 felonies.
- Supervision levels are to be based on the results of a risk and needs assessment. A risk and needs assessment must be conducted before sentencing. Placement of a juvenile in the custody of the secretary of corrections can only happen when the juvenile poses a significant risk of harm to another or damage or property and is otherwise eligible. Juveniles adjudicated for certain sex offenses can be placed in a short-term alternative placement in an emergency shelter, therapeutic foster home or community integration program.
- Sentence maximums and certain scores needed for placement on the risk and needs assessment were created for certain offenses. Serious offender I category offenders can be placed for a minimum of 18 months and a maximum of 36 months. Serious offender II category offenders can be placed for a minimum term of nine months and a maximum of 18 months. Serious offender III offenders can be placed for a minimum term of six months and a maximum of 12 months if they assessed as high-risk. Serious offender IV offenders can be placed for a minimum term of six months and a maximum of 12 months if they are assessed as high-risk. Chronic offender I offenders can be placed for a minimum term of six months and a maximum term of 12 months if they are assessed as high-risk. There is a rebuttable presumption that all offenders in the chronic offender

category and offenders between the ages of 10 and 14 in the serious offender II, III and IV categories shall be placed in a youth residential facility instead of the juvenile correctional facility.

- Starting on January 1, 2018, the secretary of corrections is allowed to contract for no more than 50 non-foster care beds in youth residential facilities.
- A juvenile cannot be ordered to be returned to a juvenile correctional facility for a violation of a condition of release. They must be discharged from a juvenile correctional facility when the overall case length limit has been reached.
- The department of corrections and the juvenile justice oversight committee were tasked with exploring methods of exchanging confidential data between different parts of the juvenile justice system.
- The Kansas juvenile justice oversight committee was created to oversee the implementation of reforms.
- The Kansas juvenile justice improvement fund was created. The secretary of corrections was required to certify the cost savings from a reduction in out-of-home placements and transfer that amount of money to the fund. Prioritization of the money in the fund was to be given to regions demonstrating a high rate of out-of-home placements of juvenile offenders.

2017 SB 42

- Judge must consider and make certain findings when they remove a juvenile from the home for the first time. This was done to maintain eligibility for federal title IV-E funding.
- Removed requirement for secretary for children and families to prepare parents for a juvenile's return if the juvenile was in an out-of-home placement at the time of sentencing.
- Supervision officers were given ability to request a warrant for a juvenile who has absconded from supervision and the court can issue that warrant and can extend or modify the terms of probation or impose additional conditions of release. Probation length limits are tolled during any time the offender has absconded from supervision.
- Juveniles charged with a sex offense are not required to be offered participation in an immediate intervention program. Immediate intervention is also not required to be

offered to juveniles who were originally charged with a felony and the charge was later amended to a misdemeanor.

- Upon a finding by the trier of fact that a firearm was used in the commission of a felony, the judge may commit the juvenile to a juvenile correctional facility for a maximum of 18 months, regardless of the risk level of the juvenile.
- The juvenile justice improvement fund was transformed into the evidence-based programs account of the state general fund, and the secretary was given authority to certify cost savings several time throughout the year.

2018 SB 179

- Created juvenile crisis intervention centers to provide short-term observation, assessment, treatment and case planning for juveniles experiencing a mental health crisis.
- A juvenile may be admitted for not more than 30 days when the head of the center determines the juvenile is in need of treatment, a qualified mental health professional from a community mental health center has given written authorization for the admission, and no other more appropriate treatment is available. A parent or legal guardian may remove a child at any time.
- A law enforcement officer may take a child into custody when the officer reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others and may deliver that child to a juvenile crisis intervention center.
- When a court determines an order or a temporary order of protective custody is necessary, the court may place the child into a juvenile crisis intervention center.
- If a juvenile is taken into law enforcement custody pursuant to the juvenile offender code and they are determined to not be detention eligible, the juvenile can be taken to a juvenile crisis intervention center.
- The evidence-based programs account was expanded to include services for juveniles experiencing mental health crisis and juvenile crisis intervention centers.

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From: Office of Revisor of Statutes

Date: November 28, 2022

Subject: Bill Brief on 2021 HB 2200

HB 2200 allows evidence-based program account money to be used on more juveniles, requires the department of corrections to build data systems and allows the juvenile overall case length limit to be extended for certain juvenile offenders.

Section 1 enacts a new section to require that the secretary of corrections and the secretary for children and families enter into a memorandum of understanding to coordinate administering a risk and needs assessment to children who have been identified as exhibiting behavior that could lead to offender behavior during the course of a child in need of care proceeding. Such memorandum of understanding shall include procedures for allowing identified children to participate in evidence-based community programs offered by the department of corrections. A copy of the memorandum of understanding would be required to be provided to the joint committee on corrections and juvenile justice oversight, the senate standing committee on judiciary and the house standing committee on corrections and juvenile justice.

Section 2 amends K.S.A. 38-2203, which is the jurisdiction statute in the revised Kansas code for care of children. This statute is amended to provide that if a child is eligible to receive services from the department for children and families, the department of corrections or the judicial branch, those agencies shall collaborate to provide such services. Nothing in the subsection precludes the child from accessing services provided by the Kansas department for children and families, the department of corrections, the judicial branch or any other state agency if the child is otherwise eligible for services.

Section 3 amends K.S.A. 38-2304, which is the jurisdiction statute in the revised Kansas juvenile justice code, to remove a provision requiring the secretary for children and families to collaborate with the department of corrections to furnish services ordered in a child in need of

care proceeding during the time the child is in a placement ordered under the juvenile justice code and replace it with an identical provision added to the child in need of care code in section 2.

Section 4 amends K.S.A. 38-2361 and these changes were added by the house committee on corrections and juvenile justice. This statute provides the sentencing alternatives for juveniles who are adjudicated as juvenile offenders. Under current law when a juvenile is committed to detention, cumulative detention over the course of the juvenile's case cannot exceed 45 days. This bill would change that cumulative detention cap to 90 days.

Section 5 amends K.S.A. 38-2391, which is the statute that provides for overall case length and probation length limits for juvenile offenders. The statute is amended to provide that the court may extend the overall case length limit to allow for completion of an evidence-based program when failure to complete the program is due to delay by the juvenile.

Section 6 amends K.S.A. 38-2392 and these changes were added by the house committee on corrections and juvenile justice. The changes made in this section would provide that when a juvenile is placed on probation, a judge may commit the juvenile to detention for a probation violation, including a technical violation and for contempt of court. The length of time that a juvenile may be committed to detention would be 24 hours for a first violation, 48 hours for a second violation, and 15 days for a third or subsequent violation.

Section 7 amends K.S.A. 75-52,162, which is the statute that requires the department of corrections and the Kansas juvenile justice oversight committee to explore methods of exchanging confidential data between all parts of the juvenile justice system. The statute is amended to require the department of corrections, prior to July 1, 2024, to develop a system to facilitate the exchanging of confidential data. The department would be required to report to the joint committee on corrections and juvenile justice oversight, the house appropriations committee, the senate judiciary committee, the senate ways and means committee and this committee on the progress of development.

Section 8 amends K.S.A. 75-52,164, which is the statute that creates the evidence-based programs account of the state general fund. Current law allows expenditures from the fund for the development and implementation of evidence-based community programs and practices for juvenile offenders, juveniles experiencing mental health crisis and their families. This bill would expand that to include children who have been administered a risk and needs assessment and have been identified as needing services pursuant to section 1. These programs are currently able to be administered by community supervision offices, including but not limited to, juvenile

intake and assessment, court services, community corrections and juvenile crisis intervention centers. This bill would expand that list to include community mental health centers and any other community-based service provider offering evidence-based community programs.

Subsection (e) would require the secretary of corrections to develop and implement a grant program with the goal of implementing evidence-based community programs throughout the state. The secretary shall adopt grant requirements. Any provider of evidence-based community programs for juveniles may apply for the grant. The grant program shall give priority to any county that demonstrates a low availability of evidence-based community programs for juveniles. The secretary shall evaluate the programs that received a grant to ensure the program is being delivered as such program was designed. Subsection (f) requires expenditures 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.