

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

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

MEMORANDUM

To: House Committee on Corrections and Juvenile Justice

From: Office of Revisor of Statutes

Date: January 25, 2023

Subject: Bill Brief on HB 2073

HB 2073 prohibits fines and fees from being assessed against a juvenile or a juvenile's parent, guardian or custodian in a case pursuant to the revised Kansas juvenile justice code (code).

Section 1 creates a new section of law providing that in an action pursuant to the code, no fine, fee, cost, court expense, reimbursement or other financial obligation shall be ordered or assessed against a juvenile or a juvenile's parent, guardian or custodian. After the effective date of the act (1) any outstanding court ordered fines or fees owed by a juvenile or a juvenile's parent, guardian or custodian shall not be collected, (2) any juvenile who is participating in immediate intervention, on probation, in a detention facility or correctional facility or being supervised solely because of outstanding fines or fees shall be discharged, and (3) a juvenile, parent or guardian who is incarcerated solely because of nonpayment of fines or fees in an action under the code shall be released from custody.

Section 2 amends K.S.A. 12-16,119, the statute requiring certain fingerprinting fees to be paid for by the person being fingerprinted, to provide that the fee shall not be assessed in an action under the code.

Section 3 amends K.S.A. 20-3129, the statute that authorizes clerks of district courts to tax a library fee for the law library in a county, to provide that no fee shall be imposed on a juvenile or a juvenile's parent, guardian or custodian under the code.

Section 4 amends K.S.A. 21-6609, the statute authorizing the court or the secretary of corrections to implement a house arrest program, to provide that the secretary shall not require a juvenile or a juvenile's parent, guardian or custodian to pay any costs associated with supervision under a house arrest program.

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS

Section 5 amends K.S.A. 22-4905, the statute in the offender registration act requiring a fee for registration, to provide that no fee shall be assessed if the offender is required to register solely because of a juvenile adjudication.

Section 6 amends K.S.A. 28-170, the statute that describes the docket fee for certain cases, to provide that the additional \$1 fee for the prosecuting attorneys' training fund and the non-judicial personnel fee shall not be imposed in an action under the code.

Section 7 amends K.S.A. 28-170a, the statute establishing the prosecuting attorneys' training fund, to provide that the \$1 fee shall not be assessed in an action under the code.

Section 8 amends K.S.A. 28-176, the statute that authorizes assessment of a \$400 forensic science fee, to provide that the fee cannot be assessed in an action under the code.

Section 9 amends K.S.A. 28-177, the statute that authorizes the non-judicial personnel fee, to provide that the fee shall not be imposed in an action under the code.

Section 10 amends K.S.A. 38-2306, the statute that provides juveniles are entitled to an attorney during proceedings under the code, to provide that the expense of those services shall not be assessed to a juvenile or the juvenile's parent, guardian or custodian.

Section 11 amends K.S.A. 38-2312, the juvenile adjudication expungement statute to provide that no docket fee or non-judicial personnel fee shall be imposed on a petitioner filing for expungement under the code.

Section 12 amends K.S.A. 38-2315, the statute providing for the care and custody expenses of a juvenile under the code. Current law in this section provides that when care and custody expenses have been paid out of the county general fund, the court may assess the expense to the person who, by law, is liable to maintain support of the juvenile. Such person may request a hearing on the question of paying the expenses, and, if ordered to pay, the person may be held in contempt of court for failure to pay. When care and custody expenses have been paid by the secretary, the secretary may recover the expenses from the person liable to maintain support of the child. The secretary may contract for collection of such expenses. The bill strikes those provisions and provides that the expenses for the care and custody of a juvenile under the code shall not be assessed to a parent, guardian or custodian.

Section 13 amends K.S.A. 38-2317, the statute that requires offenders to pay the cost of certain testing, to provide that no fee for counseling or testing shall be assessed to a juvenile or the juvenile's parent, guardian or custodian under the code.

Section 14 amends K.S.A. 38-2328, the statute that provides the requirements for pleadings under the code, to remove the current law provision providing that the complaint shall

contain a request that the parents of a juvenile be ordered to pay child support in the event the juvenile is removed from the home.

Section 15 amends K.S.A. 38-2331, the statute providing detention criteria for juveniles, to provide that no juvenile shall be placed in detention solely due to nonpayment of any fines, fees, court costs or restitution.

Section 16 amends K.S.A. 38-2346, the statute requiring juvenile intake and assessment to adopt a policy on immediate intervention programs. Current law contains a provision providing that juveniles shall not be denied participation or terminated unsuccessfully because of an inability to pay fines and that fees assessed shall be retained by the program and shall not be used for a purpose other than development and operation of the program. This bill strikes that provision and provides that no fees or costs shall be imposed on a juvenile or the juvenile's parent, guardian or custodian for participation in immediate intervention, and a juvenile shall not be denied access to the program due to unpaid fees or costs.

Section 17 amends K.S.A. 38-2348, the statute relating to incompetency of a juvenile offender, to strike the current law provision authorizing one or both parents of the juvenile to be ordered to pay child support if the juvenile is committed for evaluation and treatment under the code.

Section 18 amends K.S.A. 38-2360, the statute related to post-adjudication orders and hearings, to provide that the cost of mental health evaluation and treatment and post-adjudication assessment tools shall not be assessed to a juvenile or the juvenile's parent, guardian or custodian under the code.

Section 19 amends K.S.A. 38-2361, the statute providing sentencing alternatives for juvenile offenders, to provide that no financial terms or conditions, including fines, cost and child support, shall be placed on a juvenile or the juvenile's parent, guardian or custodian for participation in community-based programming, out-of-home placements, house arrest programs, drug or alcohol testing, electronic monitoring or remote alcohol monitoring. It also eliminates the imposition of any fine as a sentencing option. The court may not commit a juvenile to detention for nonpayment of any fine, fee, cost or restitution and the court cannot make a finding that a juvenile is detention eligible based on nonpayment of fines or noncompliance that would require a parent, guardian or custodian to pay money in order to comply.

Section 20 amends K.S.A. 38-2362, the statute providing orders related to parents under the code. Current law provides that the board of county commissioners may require parents of

juvenile offenders to pay the cost of a house arrest program that a juvenile is ordered to participate in, and the court may order the parents to pay child support when the juvenile is in the custody of the secretary. This bill strikes those provisions and provides that the parent shall not be held responsible for the cost of a house arrest program or any other evidence-based program ordered, including parenting classes, and shall not be responsible for the support of the juvenile when placed out of the home.

Section 21 amends K.S.A. 38-2369 and section 22 amends K.S.A. 38-2369, the statutes providing requirements for a juvenile offender to be placed in the juvenile correctional facility, only to make technical changes due to cross-reference changes made throughout the bill.

Section 23 amends K.S.A. 38-2384, the section in the code related to fees and expenses for appeals, to provide that the fees and costs of the appeal, including for transcripts and records, shall be paid from the county general fund and shall not be assessed to the juvenile or the juvenile's parent, guardian or custodian.

Section 24 amends K.S.A. 38-2389, the statute providing alternative means to adjudication, section 25 amends K.S.A. 38-2396, the statute providing for reintegration plans and section 26 amends K.S.A. 38-2399, the restriction on non-foster home beds in youth residential facilities, only to make technical changes due to cross-reference changes made throughout the bill.

Section 27 amends K.S.A. 75-724, the statute that allows fees to be assessed against offenders for the cost of DNA testing, to provide that such fees shall not be assessed against a juvenile or the juvenile's parent, guardian or custodian when DNA samples are required under the code.