

**REPORT OF THE JUDICIAL COUNCIL JUVENILE OFFENDER / CHILD IN NEED OF CARE
ADVISORY COMMITTEE ON CROSSOVER YOUTH**

December 13, 2019

In June 2019, Representative Fred Patton asked the Judicial Council to study the impact of 2019 S.B. 367 (S.B. 367) on crossover youth and recommend modifications to relevant provisions of law in order to ensure the goals of S.B. 367 are met for crossover youth. The Judicial Council accepted the study and assigned it to its Juvenile Offender/Child in Need of Care (JO/CINC) Advisory Committee with the addition of necessary ad hoc members. The Judicial Council authorized the JO/CINC Advisory Committee to evaluate the study request and determine which portions of it the Committee felt it was qualified to study.

COMMITTEE MEMBERSHIP

The members of the Judicial Council JO/CINC Advisory Committee are:

Hon. Kim W. Cudney, Chair, Washington; Chief District Court Judge in the 12th Judicial District and member of the Judicial Council.

Kristi Allen, Wichita; Assistant Sedgwick County District Attorney.

Kathy L. Armstrong, Shawnee Mission; Assistant General Counsel for Preventive and Protection Services, Kansas Department for Children and Families.

Charlene Brubaker, Hays; Assistant Ellis County Attorney.

Kathryn Carter, Topeka; Assistant Attorney General.

Jeff Cowger, Topeka; General Counsel with the Kansas Department of Corrections.

Hon. Patricia Macke Dick, Hutchinson; Chief District Court Judge in the 27th Judicial District.

Mickey Edwards, Emporia; State Director of Kansas CASA Association. (Not participating in this study.)

Donald W. Hymer, Olathe; Assistant District Attorney in Johnson County.

Hon. Greg Keith, Wichita; District Court Judge in the 18th Judicial District.

Prof. Richard E. Levy, Lawrence; J.B. Smith Distinguished Professor of Constitutional Law at the University of Kansas School of Law.

Sen. Julia Lynn, Olathe; State Senator from the 9th District.

Rachel Y. Marsh, Lawrence; Vice-President and Attorney with Saint Francis Ministries.

Rep. Leonard Mastroni, LaCrosse; State Representative from the 117th District.

Dawn Rouse, Topeka; Court Improvement liaison, non-voting member.

Ad Hoc Members:

Sandra Bradley, Newton; Wichita CASA Program Director (sitting in for Mickey Edwards).

Lt. Scott Brunow, Wichita; Wichita Police Department.

Randy Callstrom, Kansas City; President/CEO of Wyandot Behavioral Health Network.

RECOMMENDATIONS

Of the requests set out in the study request, the Committee decided that it was best situated to respond to the request asking for the identification of statutory provisions that need modification in order to adequately serve the crossover youth population. The following recommendations are presented below in no particular order.

A. Interagency Collaboration and Funding

1. Agency Collaboration

The Committee recommends any barriers to the coordination of services and sharing of information between service providers, including government agencies, be removed. Both the juvenile justice code and the child in need of care code need clear statements allowing a crossover youth to access services from both the Department for Children and Families (DCF) and the Department of Corrections (DOC). The Committee's proposed statutory amendments to K.S.A. 2019 Supp. 38-2203 begin on page 24 and 38-2304 begin on page 29.

2. Evidence-based programs account

In order to remove barriers to the funding of programs designed to assist crossover youth, the Committee recommends K.S.A. 2019 Supp. 75-52,164 be amended to authorize the use of the evidence-based programs account funds for

three categories of youth: (1) juveniles as defined in K.S.A. 38-2302, (2) juveniles experiencing a mental health crisis, and (3) crossover youth. The Committee’s proposed statutory amendments to K.S.A. 2019 Supp. 75-52,164 are on page 59.

B. Overall Case Length Limits

1. Extension of Overall Case Length Limits

The extension of the overall case length limits is necessary to allow juvenile offenders time to complete evidence-based programs. The Committee recommends calculating the case length limit based on the type of offense.

Proposed Overall Case Length Limits	
Type of Offense	Proposed Overall Case Length Limit
Misdemeanor: 1 st offense	12 months
Misdemeanor: 2nd or subsequent offense	24 months
Felony: Drug severity 1-5, or Nondrug severity level 7-10	30 months
Felony: Nondrug severity level 5-6	36 months
Felony: Nondrug severity level 1-4 Off-Grid	No limit

The Committee’s recommended statutory amendments to K.S.A. 2019 Supp. 38-2391 begins on page 54.

2. Commencement of Case Length Limit Timeframe

It takes more than two weeks to complete or update the required risk and needs assessment and allow time for all parties to review the assessment between adjudication and disposition. Therefore, the Committee recommends that the overall case length limit timeframe begin at the time of disposition rather than 15 days after adjudication. The Committee’s proposed amendment to K.S.A. 2019 Supp. 38-2391 is on page 56.

C. Detention Risk Assessment Tool

The Committee is concerned that the Kansas Detention Assessment Instrument does not take into consideration any of the juvenile’s criminal behaviors that did not result in an adjudication or consider the escalation of such behaviors. The Committee recommends that the juvenile intake and assessment worker be required to review the

juvenile's pending criminal offenses and collect information from the juvenile's caregiver. Gathering information from the juvenile's caregiver will allow the juvenile intake and assessment worker to have more information to make better-informed decisions regarding the detention and release and referral recommendations for the juvenile. The Committee's recommended amendments to K.S.A. 2019 Supp. 75-7023 are on page 62.

D. Harm to Self

1. Detention Override

Until more appropriate placements and services are available to juveniles in all Kansas communities, the Committee recommends K.S.A. 2019 Supp. 38-2331(a)(1) be amended to allow the court to override the results of the detention risk assessment tool if the court finds probable cause that community-based alternatives to detention are insufficient to protect the juvenile from harm to self. The Committee's proposed amendments to K.S.A. 38-2331(a)(1) are on page 34.

2. Temporary Hold

The Committee agrees that detention is not the best place for a juvenile at risk for harm to self. However, not all Kansas communities have services readily available to keep that juvenile safe. Until juvenile crisis intervention centers or other therapeutic temporary placement options are readily available for juveniles unable to return home, the Committee suggests statutory amendments to allow juveniles to be temporarily placed in detention when the juvenile poses a significant risk of harm to self. Detaining a juvenile at risk of harm to self is an extremely important tool. Keeping the juvenile safe for 48 hours would allow the parents, caregivers, relatives, law enforcement, DCF, or the prosecutor time to have evaluations completed and locate the necessary services. The Committee recommends the amendments to K.S.A. 2019 Supp. 38-2330 on pages 31-32.

3. Detaining Runaway Youth

The temporary use of detention is necessary to hold a juvenile who has run away in violation of a court's order to remain in place in a child in need of care case. The Committee agreed that it is better for a child to be held in a secure facility that is not a juvenile detention facility; however, while all communities are statutorily required to have a juvenile detention facility, communities are not required to have a secure facility that is not a juvenile detention facility. Therefore, when a child who has run away is located but no secure facility beds exist or are otherwise available, the child must be released. This often leads to the child continuing to put himself or herself at

risk by running away again. The Committee recommends the amendments to K.S.A. 2019 Supp. 38-2202(ff) on page 23 and 38-2260(f) on page 28 to allow a child to be held in a juvenile detention facility for up to 48 hours.

E. Post-Disposition Detention Limits

1. Cumulative Post-Disposition Detention Limits

In order to clarify that the detention limit in K.S.A. 2019 Supp. 38-2391(h) only applies to post-disposition terms of detention, the Committee recommends moving K.S.A. 2019 Supp. 38-2391(h) into K.S.A. 2019 Supp. 38-2361(g). The Committee also recommends the cumulative detention limit be based on the classification of the adjudication and the limit be increased. The Committee agrees that juveniles should spend as little time in detention as possible; however, sometimes the threat of detention is the most powerful tool the court can use to ensure the juvenile's participation in services. The Committee recommends the amendments to K.S.A. 2019 Supp. 38-2361 on page 50.

2. Use of Detention Pending Hearing for a Violation of a Condition of Sentence

In order to increase the number of juveniles who attend and participate in the juvenile's probation, court-ordered placement, or conditional release violation hearings, the Committee recommends some juveniles remain in detention pending a violation hearing up to 45 days with the judicial review of the detention every 14 days. The Committee recommends the amendments to K.S.A. 2019 Supp. 38-2361 on page 51.

F. Extension of Probation

Probation lengths are not long enough to allow all juveniles to successfully complete evidence-based services. If overall case length limits are increased as recommended, the court would have time to evaluate a situation on a case-by-case basis and decide how long the term of probation should be extended in order to allow the juvenile to complete the services. The Committee recommends the statute give the court discretion to extend the probation up to 6 months at a time. The Committee recommends the amendments to K.S.A. 2019 Supp. 38-2391(g) on page 55.

G. Immediate Intervention Programs

The Committee agrees that immediate intervention programs (IIPs) should be readily available and encouraged. However, the statute is unclear about the rules and procedures for IIPs and whether the IIP occurs before the prosecutor files charges or after. The

Committee recommends clarifying the statutes and clearly differentiating between pre-file IIPs and post-file IIPs. The Committee recognizes that there are potential separation of power issues with allowing a juvenile intake and assessment worker to make decisions about the charging of offenses. The Committee is also concerned about a juvenile entering into a pre-file IIP without the benefit of the prosecutor and defense attorney reviewing the evidence to decide whether the state has enough evidence to charge the juvenile. For crossover youth who have a child in need of care case, it is important that the juvenile skip the pre-file IIP process and instead start with a post-file IIP so that the post-file IIP can coordinate and comply with the juvenile's child in need of care case. The Committee recommends amendments to K.S.A. 2019 Supp. 38-2344(a) on page 36, K.S.A. 2019 Supp. 38-2346 on page 38, K.S.A. 2019 Supp. 38-2395 on page 57, K.S.A. 2019 Supp. 75-52,163 on page 58.

H. Extended Jurisdiction Juvenile Prosecution

The Committee recommends that crossover youth and all juveniles charged with felonies would benefit from being eligible for extended jurisdiction juvenile prosecution (EJJP) rather than being required to be waived up to be prosecuted as an adult. The Committee thought it was odd that S.B. 367 made more juveniles eligible for waiver to adult status than those eligible for EJJP. The Committee recommends the statute allow prosecutors the choice to use EJJP regardless of the type of felony offense. The Committee recommends the amendments to K.S.A. 2019 Supp. 38-2347 on page 42.

I. Consistency Throughout JO Code

The Committee recommends the Juvenile Offender Code be amended to consistently use the term "disposition" rather than "sentencing" to describe the hearing and orders handed down after the juvenile is adjudicated.

METHOD OF STUDY

The Committee met six times between July and December 2019. It reviewed the study request (page 65) that contained four requests and five key questions. The requests were to:

- (1) Study the impact of S.B. 367 on crossover youth;
- (2) Identify needed modifications to relevant provisions of law to ensure the goals of S.B. 367, the Juvenile Justice Code, and the Child in Need of Care Code can be met for crossover youth;
- (3) Consider data collection or information-sharing needs that would support evaluation of whether the goals of S.B. 367, the Juvenile Justice Code, and the Child in Need of Care Code are being achieved for crossover youth; and

- (4) Consider whether or how components of the Georgetown Crossover Youth Practice Model or similar practice model might inform needed statutory changes to support the goals of S.B. 367, the Juvenile Justice Code, and the Child in Need of Care Code.

The Judicial Council authorized the Committee to evaluate these four requests and determine which portions of it the Committee felt it was qualified to study. The Committee decided that it was best situated to respond to the second request asking for the identification of statutory provisions that may need to be modified in order to adequately serve the crossover youth population.

The Committee declined to respond to the first, third, and fourth requests. The first request asked for a broad study on the impact of S.B. 367 on crossover youth, and the third request asked for consideration of data collection or information-sharing needs. In 2019 House Substitute for Senate Bill 25, lawmakers directed the Kansas Department for Children and Families (DCF) to convene a working group in Fiscal Year 2020 to study the impact of S.B. 367 on crossover youth. The Committee agreed that it did not have the expertise or resources to properly respond to requests one and three and would leave these tasks to the DCF work group.

The fourth request asked the Committee to consider the Georgetown Crossover Youth Practice Model. In 2019, the Juvenile Justice Oversight Committee (JJOC) evaluated the Georgetown Crossover Youth Practice Model and recommended that Kansas pursue using the model. Because the JJOC was pursuing this topic, the Committee agreed that it did not need to study the model or make recommendations about it at this time.

In preparation for the study, the Committee reviewed the following materials:

- KVC Kansas Publication entitled “We Can & Must Do Better for ‘Crossover Youth’: Why We Urgently Need a Proven Strategy for Children Involved in Both the Child Welfare and Juvenile Justice Systems.”
- The Kansas Department for Children and Families “Crossover Youth Report SFY 2005 – SFY 2018.”
- The Kansas Department for Children and Families Crossover Youth Services Working Group Report dated June 30, 2019.
- Minutes from the April 5, 2019 Juvenile Justice Oversight Committee meeting.
- The 2015 Georgetown University “Crossover Youth Practice Model (CYPM): An Abbreviated Guide.”
- Powerpoint slides from a presentation on the Georgetown Crossover Youth Practice Model, originally presented by Shay Bilchick and Macon Stewart of the Georgetown University McCourt School of Public Policy Center for Juvenile Justice Reform on April 4, 2019, to the Kansas Juvenile Justice Oversight Committee.

- The July 2017 version of the Kansas Detention Assessment Instrument (KDAI).

DISCUSSION

The term “crossover youth” is commonly used and encompasses a wide range of youth in various situations. The Committee reviewed the Georgetown University Crossover Youth Practice Model definitions and the discussion of the definition and risk factors associated with crossover youth from the June 30, 2019, DCF Crossover Youth Services Working Group Report. The Georgetown Crossover Youth Practice Model’s target population is “youth who have current and simultaneous involvement in both the child welfare and juvenile justice systems.” The target population includes youth initially involved in the child welfare system who are subsequently referred to the juvenile justice system, and vice versa, youth who are initially involved in the juvenile justice system and are subsequently referred to and become involved in the child welfare system. The Committee agreed that its discussion of crossover youth would broadly include youth who are or should be involved in both the child welfare system and the juvenile justice system, regardless of whether the youth has been adjudicated in either system.

The study request presented five key questions but did not limit the Committee’s consideration to only these five questions. The five questions were:

- 1) Whether evidence-based corrections interventions from S.B. 367 are reaching crossover youth either at home or when placed in foster care.
- 2) Whether there are appropriate placement options for youth with offender behaviors placed in CINC foster care.
- 3) Whether the Detention Risk Assessment Tool and detention override option is adequately taking into account repeat offender behaviors.
- 4) Whether needed corrections services are being provided at the appropriate times and in the appropriate setting for crossover youth, particularly those youth who are repeatedly engaging in offender behaviors, escalating in offense level, or exhibiting extreme physical or sexual aggression.
- 5) Whether public safety, including safety of caregivers and providers, is being appropriately considered at all stages of corrections interventions.

The Committee evaluated each question and identified the following statutory amendments. The Committee also identified other relevant statutory amendments that would be helpful to crossover youth. The following recommendations are presented below in no particular order.

A. Interagency Collaboration and Funding

In order to best serve Kansas' crossover youth, the Committee recommends any barriers to the coordination of services and sharing of information between service providers, including any government agency, be removed. It also recommends any barriers to funding be modified to allow programs assisting crossover youth to receive funds regardless of which agency or entity is providing the services. In order to best accomplish these goals, the following statutory amendments are needed simultaneously.

1. Agency Collaboration

As the number of justice-involved and child-in-need-of-care-involved youth increases, it is and will continue to be essential for DCF, the Kansas Department of Corrections (DOC), community corrections, and court services to cooperate and coordinate services for crossover youth. S.B. 367 amended K.S.A. 2015 Supp. 38-2304(g)(3) to require DCF to collaborate with DOC to furnish services to youth in DOC custody who are also subject to a child in need of care proceeding. The statute clearly set out that being placed in the custody of DOC shall not preclude the juvenile offender from accessing services provided by DCF or any other state agency if the juvenile offender was otherwise eligible for the services. However, no such collaboration requirement between agencies, or clear statement allowing a child in need of care to access any and all services for which the child is otherwise eligible, was included in the CINC code. To increase the services reaching crossover youth, the Committee recommends revision to the language in K.S.A. 2019 Supp. 38-2304(g)(3) and the insertion of a new section under K.S.A. 2019 Supp. 38-2203. See proposed amendments on pages 24 and 29.

In order for all agencies to collaborate and coordinate services, it is essential that agencies and service providers are allowed to share information as needed. Agencies and service providers include DCF, DOC, Kansas Department of Aging and Disability Services (KDADS), Kansas Department of Health and Environment (KDHE), the judicial branch, and community corrections. To best serve crossover youth, the Committee recommends any information barriers identified by these agencies and service providers be removed.

2. Evidence-based programs account

S.B. 367 established the evidence-based programs account of the state general fund (the account). The account was established to fund the development and implementation of evidence-based community programs and practices for juvenile offenders and their families provided by community supervision offices. The statute, K.S.A. 75-52,164, was later amended to include not just juvenile offenders and their families, but also juveniles experiencing a mental health crisis and their families. The Committee recommends that the statute authorize use of the money for three categories of youth: (1) juveniles as defined in K.S.A. 38-2302 and their families;

(2) juveniles experiencing a mental health crisis and their families; and (3) crossover youth and their families. The Committee also recommends removing the language restricting that the funds only be used for programs provided by community supervision offices. See proposed amendments on page 59.

These amendments would broaden the categories of youth eligible to receive services funded through the account. K.S.A. 38-2302 defines juveniles to include “a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.” Therefore, under the proposed amendments, this account could provide funding for an evidence-based program administered by DCF aimed at preventing children in the child in need of care system who are at least 10 years old from becoming a crossover youth, i.e. committing offenses that would lead to the child’s involvement in the juvenile justice system. The funds could also be used to fund a program through community corrections that specifically works with crossover youth. The current statutory language does not prohibit the account from funding programs aimed at assisting crossover youth; however, the Committee recommends the statute specifically state the funds can be used for crossover youth in order to encourage funds to be used for this high-risk population.

The Committee recognizes that “crossover youth” is not a defined term in Chapter 75 or elsewhere in Kansas statutes. However, it is the Committee’s understanding that a definition of crossover youth to be used statewide is being drafted by the Crossover Youth Policy Group state policy team¹. The Committee recommends a definition of crossover youth be created but defers to the future definition created by the Crossover Youth Policy Group.

B. Overall Case Length Limits

The extension of the overall case length limits is necessary to allow juvenile offenders time to complete evidence-based programs. Due to the short juvenile offender timeframes now in place, prosecutors sometime choose to file a child in need of care petition rather than file juvenile offender charges because the prosecutor knows the youth and his or her family will likely need more than 12-18 months of services. These youth are then more likely to exhibit juvenile offender behaviors while in the CINC system and become dually-involved crossover youth. The Committee recommends increasing the juvenile offender overall case length limits in order to allow juveniles and their families sufficient time to engage in and benefit from the juvenile offender evidence-based programs. The Committee also recommends beginning the overall case

¹ Operating with support from the Center for Juvenile Justice Reform from Georgetown University.

length time period at disposition rather than before disposition in order to provide all juveniles at least a few weeks of additional time to complete evidence-based programs.

1. Extension of Overall Case Length Limits

One of the goals of S.B. 367 was to prohibit a juvenile's case from being perpetually extended by implementing overall case length limits. Under K.S.A. 2019 Supp. 38-2391(b), the overall case length limit is calculated based on the adjudicated offense and the results of the risk and needs assessment. The risk and needs assessment measures how likely the juvenile is to reoffend and classifies juveniles as low, moderate, or high risk. The case length limit must begin upon disposition or 15 days after adjudication, whichever is sooner.²

The Committee considered an example of a high-risk juvenile offender adjudicated for a felony who is sentenced to 18 months in the juvenile correctional facility, but has the sentence stayed pending completion of 18 months of supervised probation. Because the overall case length limit is 18 months, the juvenile might comply with the terms of the probation through the first 16 months, before choosing to ignore the probation requirements for the remaining two months. The juvenile knows that the court cannot move quickly enough within those last two months to send the juvenile to the correctional facility before the court loses jurisdiction. The same is true for juveniles who are required to pay restitution. The juvenile may refuse to pay or pay the minimal amount knowing that the court will soon lose jurisdiction and the case will close. The Committee heard reports that prosecutors sometimes choose to file an initial case as a CINC petition rather than charging the juvenile as a juvenile offender because the prosecutor believes the juvenile and his or her family will need services for longer than the overall case length limit in the juvenile offender case will allow.

The Committee agreed the overall case length limits are not always long enough to adequately complete the evidence-based programs to facilitate a change in a juvenile offender's behavior. The Committee also agreed there is a public safety risk if juvenile offenders are not required to participate in and complete necessary services. The failure to complete services within the short timeframe dictated by the overall case length limit does not adequately protect against the escalation of the juvenile's behaviors. Such escalation presents a risk of harm to family members and may result in the juvenile crossing over to the child in need of care system. Once in the CINC system, the juvenile continues to be at-risk of harming others, including but not limited to case managers, foster parents, and other youth.

The Committee agreed with S.B. 367's goal of shortening the length of time for some juveniles. First time misdemeanor offenders should be given the opportunity to quickly "self-

² K.S.A. 2019 Supp. 38-2391(i).

correct.” Currently, K.S.A. 2019 Supp. 38-2391(b) provides that all juveniles, regardless of risk level or juvenile criminal history, are limited to an overall case length limit of 12 months. Twelve months may be sufficient for a first-time offender to self-correct, but if a juvenile commits a second or subsequent misdemeanor, the Committee agreed that the juvenile has shown that he or she does not fit into the first-time-offender self-corrector category and the overall case length limit should be extended to allow for more comprehensive services. The sooner a juvenile with misdemeanor charges can complete services and benefit from corrections interventions, the higher the likelihood that the services can prevent the juvenile’s escalation of behaviors, reduce the risk to the public’s safety, and avoid later felony adjudications for the juvenile.

The Committee also recommends extending the overall case length limit to 30 months and 36 months for felony adjudications. The current statute sets the overall case length limit at 15 months for low and moderate risk offenders, and 18 months for high risk offenders. The Committee agreed that 15 and 18 months is an insufficient amount of time for the moderate and high-risk offenders. The Committee recommends delineating the case length limits by the severity level of the felony. Drug and nondrug severity level 7 through 10 felonies would remain under the court’s jurisdiction for up to 30 months, and the nondrug level 5 and 6 felonies would remain under the court’s jurisdiction for up to 36 months. The off grid and severity level 1 through 4 felonies would remain without an overall case length limit.

Current Overall Case Length Limits		
Risk Level	Type of Offense	Current Overall Case Length Limit
Low	Misdemeanor	12 months
Moderate	Misdemeanor	12 months
High	Misdemeanor	12 months
Low	Felony	15 months
Moderate	Felony	15 months
High	Felony	18 months
N/A	Felony: Nondrug severity level 1-4 Off-Grid	No limit

Proposed Overall Case Length Limits	
Type of Offense	Proposed Overall Case Length Limit
Misdemeanor: 1 st offense	12 months
Misdemeanor: 2nd or subsequent offense	24 months
Felony: Drug severity 1-5, or Nondrug severity level 7-10	30 months

Felony: Nondrug severity level 5-6	36 months
Felony: Nondrug severity level 1-4 Off-Grid	No limit

Increasing the overall case length limit would not prohibit the case from ending before reaching the overall case length limit; however, increasing it would allow corrections, community supervision, and other service providers time to complete the necessary interventions for each juvenile. The Committee agreed that extending the overall case length limits would help avoid juvenile offenders crossing over into the child in need of care system at the end of their respective juvenile offender cases.

The Committee recommends the statutory amendments on page 54.

2. Commencement of Case Length Limit Timeframe

Under K.S.A. 2019 Supp. 38-2391(i), the case length limit must begin upon disposition or 15 days after adjudication, whichever is sooner. However, based on the Committee members’ knowledge, experiences, and provided information, disposition rarely occurs within 15 days of adjudication because the required risk and needs assessment pursuant to K.S.A. 2019 Supp. 38-2360 cannot be completed or updated within 15 days of adjudication. Therefore, the case length timeframe begins before disposition occurs and services are in place. This shortens the timeframe in which the juvenile is eligible to receive and complete post-dispositional evidence-based services.

The risk and needs assessment³ takes weeks to complete or update yet is vitally important because it helps the court determine which dispositional services the juvenile and the juvenile’s family need. If the juvenile is in foster care, the risk and needs assessment informs the court and service providers about which needs and services should take precedence. The Committee recommends the statute be amended as shown on page 56, so that the overall case length limit timeframe would begin upon disposition regardless of when the disposition occurs.

In the alternative, if the overall case length limit timeframe remains as beginning upon the earlier of disposition or a certain number of days after adjudication, then the Committee recommends the number of days be increased to 30 days after adjudication, and that a section be added allowing for the staying of the overall case length limit timeframe pending a change of venue prior to disposition.

³ The current risk and needs assessment tool is the Youth Level of Service/Case Management Inventory (YLS/CMI).

C. Detention Risk Assessment Tool

The Committee reviewed the Kansas Detention Assessment Instrument (KDAI). The Committee identified multiple problems with the KDAI. First, the KDAI does not take into consideration any of the juvenile's criminal behaviors that did not result in a felony or misdemeanor adjudication. Second, the KDAI does not consider the frequency of criminal behaviors, unadjudicated or adjudicated. Escalation of behavior is important in determining the juvenile's likelihood of appearing at court or risk of reoffending if not detained. For example, a juvenile who punches someone once and then punches someone else a year later should be treated differently than the juvenile who punches his brother on Monday, gets into a physical fight with his mother on Thursday, and breaks a window in his parents' house on Saturday. The latter juvenile is showing escalating behaviors and should be considered more of an imminent threat to society. If the juvenile does not score as detention eligible on the KDAI, the juvenile's parents may refuse to allow him to return to their home. The juvenile is now a crossover youth who is taken into the CINC system for placement.

If the juvenile is already in out-of-home placement through the child in need of care system and the juvenile does not score as detention eligible, the juvenile returns to the DCF contractor who is often unable to find a placement for the juvenile due to his or her juvenile offender behaviors. The child in need of care system placements are primarily trained and equipped for caring for abused and neglected youth, not youth exhibiting higher levels of juvenile offender behaviors.

Because the KDAI only considers pending or already adjudicated offenses, the juvenile intake and assessment worker completing the KDAI may not know about the juvenile's escalating behaviors. When a juvenile is taken into custody under K.S.A. 2019 Supp. 38-2330, a juvenile intake and assessment worker must complete an intake and assessment process. K.S.A. 2019 Supp. 75-7023(d) provides a list of information that the intake and assessment worker must collect. The statute does not contain any requirement to gather information from the juvenile's current caregiver. The Committee recommends that the statute require the intake and assessment worker to communicate and collect information from the juvenile's caregiver. The Committee intentionally used the term caregiver rather than parent or legal guardian because the Committee wanted the intake and assessment worker to talk to a parent, relative, caregiver who may or may not have legal custody or guardianship of the juvenile, the Department of Children and Families, or a foster parent if the juvenile is in foster care. Ideally, the caregiver would be able to provide the intake and assessment worker more detailed information about the juvenile's escalating behaviors or multiple law enforcement contacts that perhaps did not result in an arrest or juvenile offender adjudication.

Based on the Committee members' knowledge, experiences, and provided information, courts are reluctant to override the KDAI's detention eligibility result because one of the goals of S.B. 367 was to reduce the number of juveniles in detention. If the intake and assessment worker obtains more information about a juvenile's escalating offender behaviors, perhaps the intake and assessment worker and the court will have more comprehensive information to make better informed decisions regarding the grounds to override the KDAI's result. The intake and assessment worker will also have better information upon which to make release and referral recommendations.

The Committee also recommends a clarification to the requirement that the juvenile intake and assessment worker collect information about the juvenile's criminal history. In order to better identify a juvenile's repeat offender behaviors, the intake and assessment worker should include information about any pending and adjudicated juvenile charges.

See recommended amendments on page 62.

D. Harm to Self

S.B. 367 rightly identified that juveniles who are at risk for harming themselves by suicide, drug use, running away, or other risky behaviors, should receive specialized evidence-based services rather than merely being sent to sit in detention. The current juvenile offender code does not authorize a juvenile to be detained due to being at risk for harm to self; however, the option to keep the juvenile safe in detention was removed without the creation or expansion of more appropriate service options. The Committee identified the following issues with needed services:

- Psychiatric Residential Treatment Facilities (PRTF) have a long waitlist to receive services.
- There are no juvenile crisis intervention centers open in the state.
- There are a very limited number of secure care beds in the state.
- There are very few staff secure placements in the state and these placements are not readily accessible to all communities.
- The court is no longer allowed to directly place a juvenile into secure care.
- There is limited or no access to these services in rural and frontier Kansas communities.

The Committee recommends services be increased to best serve all juveniles at risk of harm to self and crossover youth in all communities. Unfortunately, the Committee understands such an expansion of services would take a lot of funds and time. Until such services are readily available to all Kansas communities, the Committee recommends communities be authorized to

utilize the one option that is currently available to protect juveniles at risk of harm to self – detention. The Committee also recommends that any statutory authorization to use detention to prevent harm to self be reviewed by the legislature every 3-4 years in order to assess whether the necessary services to prevent the use of detention are available and whether detention can be removed from the list of options.

1. Detention Override

The Committee recommends that K.S.A. 2019 Supp. 38-2331(a)(1) be amended to allow the court to override the results of the detention risk assessment tool if the court finds probable cause that community-based alternatives to detention are insufficient to protect the juvenile from harm to self if the juvenile is not detained. The Committee agreed that S.B. 367 rightly wanted to avoid placing juveniles at risk of harming themselves in detention. However, because there are currently insufficient resources available to all communities that provide therapeutic alternatives to detention for juveniles at risk for harming themselves, the Committee recommends that the statute authorize the court to override the detention assessment and hold juveniles in detention for a short period of time for the juvenile’s own safety.

See recommended amendments on page 34.

2. Temporary Hold

Based on the Committee members’ knowledge, experiences, and provided information, the Committee did not think that appropriate placement options now exist for juvenile offenders who are subsequently placed in a foster care placement. The Committee discussed possible scenarios of when a juvenile, before or after adjudication, is placed in an out-of-home foster care placement. One common scenario is when a juvenile is arrested and processed, but at the end of the juvenile intake process, the juvenile’s parents refuse to allow the juvenile to return to their home. The parents may be tired of trying to control an out of control juvenile or the juvenile may present a danger to the parents or other children in the home.

One of the goals of S.B. 367 was to enable juveniles and their families to receive needed services without removing the juvenile from his or her home. If the juvenile is suffering from untreated mental illness, K.S.A. 2019 Supp. 38-2330(d)(2)(C) allows a juvenile who cannot be delivered to the juvenile’s parent or custodian to be delivered to a juvenile crisis intervention center. The Committee agreed that a specialized and therapeutic placement, such as in a juvenile crisis intervention center, would be ideal for the juvenile suffering from untreated mental illness. However, though authorized by statute, there are no juvenile crisis intervention centers currently open in Kansas. The Committee received information that some juvenile crisis intervention centers may be opening in Kansas within the next few years, but the Committee was skeptical

that the location of the centers would be adequate to facilitate the quick transportation of the juvenile in crisis from his or her hometown to the center.

Until juvenile crisis intervention centers or other therapeutic temporary placement options are readily available for juveniles unable to return home, the Committee suggests K.S.A. 2019 Supp. 38-2330 be amended to allow law enforcement, a court services officer, juvenile community corrections officer, or other person authorized to supervise juveniles subject to the Juvenile Offender Code, to temporarily place a juvenile in detention for up to 48 hours. First, allowing the detention of the juvenile for up to 48 hours allows all parties, the juvenile and parents, the opportunity to calm down enough to allow the juvenile to successfully re-enter the home. Allowing this limited use of detention could reduce the number of parents who refuse to allow the juvenile to return home, which in turn could reduce the number of juveniles entering the child in need of care system.

Second, authorizing the detention of a juvenile for up to 48 hours would also allow time for services to be set up or referrals made before the juvenile returned home. For example, if a juvenile is using drugs and becomes violent while high, the parents may not feel that they can safely allow the juvenile to return to their home while the juvenile is high on drugs. However, if law enforcement is able to detain the juvenile for up to 48 hours, all parties remain safe while the parents find a drug treatment facility or program for the juvenile. The Committee agreed that detention is not the ideal place for a juvenile to detox from being high or otherwise intoxicated; however, the reality is that special detox or other therapeutic facilities are not readily available in all Kansas communities. If sufficient therapeutic facilities were available to all Kansas communities, the Committee would favor the use of such facilities over the use of a detention facility.

The Committee recommends the amendments found on pages 31-32.

3. Detaining Runaway Youth

The temporary use of detention is necessary to hold a juvenile who has run away in violation of a court's order to remain in place in a CINC case. K.S.A. 2019 Supp. 38-2260 authorizes the court to direct a child in a CINC case to remain in a placement, i.e. not run. Children who run away are more likely to encounter law enforcement and be arrested for a juvenile offense. For example, a child in foster care runs away from her foster home in violation of a court order to remain at the placement and then is caught shoplifting. The child is now a crossover youth who is involved in both systems. Under the current juvenile offender code, it is unlikely that the child will qualify to be detained under the juvenile offender code, but for the child's safety law enforcement needs to temporarily detain the child in order to allow for the CINC system to find the child a placement from which she will not run away. Prior to S.B. 367, K.S.A. 38-2260

authorized the court to issue an ex parte order directing the child be temporarily held in a secure facility or juvenile detention facility. S.B. 367 removed the option for the child to be held in a juvenile detention facility.

The Committee agreed that it is better for a child to be held in a secure facility that is not a juvenile detention facility; however, while all communities are statutorily required to have a juvenile detention facility, communities are not required to have a secure facility that is not a juvenile detention facility. Therefore, when a child who has run away is located but no secure facility beds exist or are otherwise available, the child must be released. This often leads to the child continuing to put himself or herself at risk by running away again. The Committee recommends the CINC statutes be amended as shown on pages 23 and 28 to allow a child to be placed in a juvenile detention facility for up to 48 hours. If the runaway child is arrested for a juvenile offense, authorizing law enforcement to temporarily hold the child pursuant to the juvenile offender code because of a risk of harm to self as discussed above would help protect crossover youth.

E. Post-Disposition Detention Limits

DCF contractors struggle to find placements for higher risk crossover youth who are in out of home placement through a child in need of care case. Juveniles who violate a condition of sentence or violation of a requirement of conditional release are unlikely to have a stable placement where the juvenile experiences consequences from his or her behaviors. Therefore, the only consequence a juvenile may experience is a short stay in detention. The Committee recommends an increase in the post-disposition detention limit based on the classification of the underlying adjudication. An increase in the post-disposition detention limit would also allow the court to detain a juvenile pending a hearing on a violation of a condition of sentence or conditional release, while still maintaining the possibility of a future detention consequence for further violations of the juvenile's sentence or conditional release.

1. Cumulative Post-Disposition Detention Limits

Pursuant to K.S.A. 2019 Supp. 38-2391(h), if a juvenile is placed in detention for a non-technical violation of a condition of sentence or a violation of a requirement of conditional release, the court shall set a term for detention not to exceed the cumulative detention limit of 45 days over the course of the juvenile's case. In both situations, K.S.A. 2019 Supp. 38-2361(g) controls the terms of the detention. Therefore, to promote clarity, the Committee recommends moving the elements of K.S.A. 2019 Supp. 38-2391(h) into K.S.A. 2019 Supp. 38-2361(g)(4). See the proposed amendments on page 50.

The Committee recommends that the cumulative detention limit over the course of the whole case be based on the classification of the adjudication. For a misdemeanor offense, the

cumulative detention limit would increase from 45 days to 90 days. For a drug or nondrug severity level 5 through 10 felony, the cumulative detention limit would increase from 45 days to 180 days. For off grid and severity level 1 through 4 felonies, there would be no cumulative detention limit. The initial commitment time period to detention due to a nontechnical violation of a condition of sentence or a violation of a requirement of conditional release would remain limited to 30 days.

Based on the Committee members' knowledge, experiences, and provided information, a juvenile who violates his or her conditional release or probation knows the court can only send the juvenile to detention for up to 45 days over the course of the case. Therefore, once the juvenile has served the 45 days for multiple violations of conditional release or probation, the juvenile no longer has an incentive to follow the terms of conditional release or probation. While the Committee agrees that juveniles should spend as little time in detention as possible, sometimes the threat of detention is the most powerful tool the court can use to ensure the juvenile participates in services.

2. Use of Detention Pending Hearing for a Violation of a Condition of Sentence

The Committee members reported that they are having a hard time with juveniles appearing and participating in probation, court-ordered placement, and conditional release violation hearings. If the juvenile violates a condition of probation, court-ordered placement, or conditional release, the juvenile may need to be detained pending a hearing on the alleged violations. The Committee recommends that the juvenile remain in detention pending a violation hearing no longer than 45 days (assuming the cumulative detention limit is increased) and have judicial review of the detention every 14 days. See the proposed amendments on page 51.

F. Extension of Probation

According to the Kansas Department of Corrections (DOC), from July 2018 through December 2018, the Kansas Department of Corrections (DOC) supervised 846 juvenile offenders on probation with community corrections. Of those 846 juvenile offenders, 60.17% successfully completed their probation.⁴ DOC defines a successful completion as “a youth who, at the time of discharge, has no pending offense or pending revocations, and is engaging with programming, treatment, and requirements set forth in the supervision plan.” An unsuccessful completion is “a youth who at the time of discharge has pending offenses or revocations, or has not engaged with programming, treatment, and requirements set forth in the supervision plan.”⁵ According to the

⁴ DOC FY19 Successful/Unsuccessful Probation Completions, <https://www.doc.ks.gov/juvenile-services/committee/documentation/august-12-2019-meeting/successful-unsuccessful-probation-completions/view> (last visited 11/12/2019).

⁵ *Id.*

Office of Judicial Administration (OJA), during that same time period, July 2018 through December 2018, court services had 806 juvenile offenders begin probation with court services. OJA does not have statistics on how many of those 806 juvenile offenders successfully or unsuccessfully completed probation.

If the case length limits are extended as recommended above, there would be time for the court to extend a juvenile's probation in order to allow for the successful completion of the probation. Allowing the extension of probation in order for a juvenile to successfully complete an evidence-based program would help avoid juveniles who need a CINC out of home placement because the juvenile's parents will not allow the juvenile to remain in their home. A successful completion of the terms and services required by the juvenile's probation would increase public safety and reduce the likelihood of the juvenile crossing over into the CINC system.

K.S.A. 2019 Supp. 38-2391(g) provides the initial probation term limits based on the juvenile's risk level and type of adjudication – misdemeanor or felony. The current statute allows for the extension of the probation term for one month for low risk offenders, three months for moderate risk offenders, and six months for high risk offenders. The Committee does not recommend any changes to the initial probation lengths. However, if the overall case length limits are increased, the Committee recommends allowing the court to exercise discretion to extend any juvenile's probation up to six months at a time. This approach would give the judge more discretion to evaluate the unique facts of each individual case and determine how much time is necessary for a juvenile to finish his or her community service or complete a treatment program. Allowing the court to extend the probation term for up to six months protects the juvenile and the juvenile's family from having to miss school and work to return again and again to court. If something changed that warranted the court's review before the end of the probation extension, the statute contains no section prohibiting the parties from filing a motion to bring the issue before the court at any time.

The Committee recommends the statutory amendments on page 55.

G. Immediate Intervention Programs

One of the main paths S.B. 367 created for juveniles to receive evidence-based corrections services was through immediate intervention programs (IIP). The Committee agreed that providing crossover youth and all juveniles with services as soon as possible and avoiding an adjudication is extremely important. The Committee discussed that evidence-based services provided as soon as possible after the juvenile's first contact with the juvenile justice system will result in the best outcomes for juveniles and their families. Currently, K.S.A. 2019 Supp. 38-2346(b)(1) mandates a juvenile who goes through the juvenile intake and assessment process be offered the opportunity to participate in an IIP and avoid prosecution if (1) the juvenile is charged

with certain misdemeanors, (2) the juvenile has no prior adjudications, and (3) the offer of the IIP was made pursuant to guidelines developed by the director of juvenile intake and assessment services in collaboration with the county or district attorney.

The Committee agreed with S.B. 367's goal to encourage crossover youth and all juveniles to complete an IIP and avoid an adjudication. However, the Committee recognized that there are potential separation of power issues with allowing someone other than the prosecutor to make decisions about charging offenses. While a juvenile's successful or unsuccessful completion of a pre-file IIP that was completed for a juvenile intake and assessment worker may be a factor the prosecutor considers when deciding whether or not to charge the juvenile with the offense, some prosecutors are of the opinion that the successful completion of the IIP cannot prohibit the prosecutor from filing a charge.

Additionally, the statutory language is inconsistent and unclear about whether IIPs are offered before or after the case is referred to the prosecutor for review and the possible filing of charges. The prosecutor may review the case and see a search and seizure violation or other evidentiary issues that would prevent the prosecutor from filing the case. If the juvenile agrees to participate in an IIP before the prosecutor makes the decision whether to pursue the case, the juvenile may be completing an IIP for a case that would have never existed. The Committee was also concerned about juveniles who agree to complete an IIP without first being afforded the opportunity to consult with a defense attorney regarding the viability of the state's case against the juvenile.

In order to resolve these concerns and make sure that the services offered through IIPs are reaching all juveniles as quickly as possible, while still protecting the juvenile's constitutional rights and the constitutional rights of the prosecutor, the Committee recommends the amendments on pages 36, 38, and 57-58. The proposed amendments would clarify that there are two types of IIP – pre-file IIP and post-file IIP – and that there are different rules for each type of IIP.

The juvenile intake and assessment worker who puts together a pre-file IIP may not be aware that a juvenile is already involved with the CINC system or may be unable to access information about the juvenile's CINC case and requirements. For crossover youth specifically, allowing the system to skip the pre-file IIP and start with a post-file IIP with the prosecutor's office means the prosecutor, who has access to the juvenile's CINC case, can include conditions that the juvenile will comply with requirements in the CINC case or out-of-home placement rules.

H. Extended Jurisdiction Juvenile Prosecution

During the Committee's discussion of the issues surrounding crossover youth and especially escalating crossover youth, the Committee agreed that crossover youth and all

juveniles would benefit from being able to participate in an extended jurisdiction juvenile prosecution (EJJP) rather than being waived up to be prosecuted as an adult. S.B. 367 limited the juveniles who qualify for EJJP to those offenders charged with an offense which, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony. However, one of the goals of S.B. 367 was to decrease punishments, not increase punishments by treating juveniles who could have benefited from EJJPs but instead are now waived to adult status. The Committee recommends EJJP be available regardless of the type of felony offense.

The Committee agreed that crossover youth tend to exhibit higher level juvenile offender behaviors. Prosecutors would prefer to use EJJP rather than waiving a juvenile to adult status; however, if the juvenile is escalating, in their upper teens, and showing resistance to CINC related services, the prosecutor may choose to waive the juvenile to adult status.

The Committee recommends the statutory amendments on page 42.

I. Consistency Throughout JO Code

The Committee recommends the Juvenile Offender Code be amended to consistently use the term “disposition” rather than “sentencing” to describe the hearing and orders handed down after the juvenile is adjudicated.

K.S.A. 38-2202. Definitions.

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As used in the revised Kansas code for care of children, unless the context otherwise indicates:

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(ff) "Secure facility" means a facility, other than a staff secure facility ~~or juvenile detention facility~~, that is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or that relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail. A secure facility shall include a juvenile detention facility only for the purposes described in K.S.A. 2019 Supp. 38-2260, and amendments thereto.

....

1 ***K.S.A. 38-2203. Jurisdiction; age of child, presumptions; precedence of certain orders***

2 (a) Proceedings concerning any child who may be a child in need of care shall be governed by
3 this code, except in those instances when the court knows or has reason to know that an Indian
4 child is involved in the proceeding, in which case, the Indian child welfare act of 1978, 25 U.S.C.
5 § 1901 et seq., applies. The Indian child welfare act may apply to: The filing to initiate a child in
6 need of care proceeding, K.S.A. 38-2234, and amendments thereto; ex parte custody
7 orders, K.S.A. 38-2242, and amendments thereto; temporary custody hearing, K.S.A. 38-2243,
8 and amendments thereto; adjudication, K.S.A. 38-2247, and amendments thereto; burden of
9 proof, K.S.A. 38-2250, and amendments thereto; disposition, K.S.A. 38-2255, and amendments
10 thereto; permanency hearings, K.S.A. 38-2264, and amendments thereto; termination of
11 parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and amendments thereto; establishment
12 of permanent custodianship, K.S.A. 38-2268 and 38-2272, and amendments thereto; the
13 placement of a child in any foster, pre- adoptive and adoptive home and the placement of a
14 child in a guardianship arrangement under article 30 of chapter 59 of the Kansas Statutes
15 Annotated, and amendments thereto.

16 (b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 23-
17 37,101 through 23-37,405, and amendments thereto, the district court shall have original
18 jurisdiction of proceedings pursuant to this code.

19 (c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or
20 upon issuance of an ex parte order pursuant to K.S.A. 38-2242, and amendments thereto.
21 When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until
22 the child has: (1) Become 18 years of age, or until June 1 of the school year during which the
23 child became 18 years of age if the child is still attending high school unless there is no court
24 approved transition plan, in which event jurisdiction may continue until a transition plan is
25 approved by the court or until the child reaches the age of 21; (2) been adopted; or (3) been
26 discharged by the court. Any child 18 years of age or over may request, in writing to the court,
27 that the jurisdiction of the court cease. The court shall give notice of the request to all parties
28 and interested parties and 30 days after receipt of the request, jurisdiction will cease.

29 (d) When it is no longer appropriate for the court to exercise jurisdiction over a child, the court,
30 upon its own motion or the motion of a party or interested party at a hearing or upon
31 agreement of all parties or interested parties, shall enter an order discharging the child. Except
32 upon request of the child pursuant to subsection (c), the court shall not enter an order
33 discharging a child until June 1 of the school year during which the child becomes 18 years of
34 age if the child is in an out-of-home placement, is still attending high school and has not
35 completed the child's high school education.

1 (e) When a petition is filed under this code, a person who is alleged to be under 18 years of age
2 shall be presumed to be under that age for the purposes of this code, unless the contrary is
3 proved.

4 (f) A court's order issued in a proceeding pursuant to this code, shall take precedence over such
5 orders in a civil custody case, a proceeding under article 31 of chapter 60 of the Kansas Statutes
6 Annotated, and amendments thereto, protection from abuse act, or a comparable case in
7 another jurisdiction, except as provided by K.S.A. 23-37,101 through 23-37,405, and
8 amendments thereto, uniform child custody jurisdiction and enforcement act.

9 (g) If a child is eligible to receive services from the department for children and families, the
10 department of corrections or the judicial branch, such agencies shall collaborate to provide
11 such services. Nothing in this subsection shall preclude the child from accessing services
12 provided by the department for children and families, department of corrections, the judicial
13 branch or any other state agency if the child is otherwise eligible for the services.

1 ***K.S.A. 38-2260. Placement; order directing child to remain in present or future placement,***
2 ***application for determination that child has violated order; procedure; authorized***
3 ***dispositions; limitations on facilities used for placement; computation of time limitations.***

4 (a) *Valid court order.* During proceedings under this code, the court may enter an order
5 directing a child who is the subject of the proceedings to remain in a present or future
6 placement if:

7 (1) The child and the child's guardian ad litem are present in court when the order is
8 entered;

9 (2) the court finds that the child has been adjudicated a child in need of care pursuant to
10 K.S.A. 2019 Supp. 38-2202(d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or (d)(12), and amendments
11 thereto, and that the child is not likely to be available within the jurisdiction of the court for
12 future proceedings;

13 (3) the child and the guardian ad litem receive oral and written notice of the consequences
14 of violation of the order; and

15 (4) a copy of the written notice is filed in the official case file.

16 (b) *Application.* Any person may file a verified application for determination that a child has
17 violated an order entered pursuant to subsection (a) and for an order authorizing holding the
18 child in a secure facility. The application shall state the applicant's belief that the child has
19 violated the order entered pursuant to subsection (a) without good cause and the specific facts
20 supporting the allegation.

21 (c) *Ex parte order.* After reviewing the application filed pursuant to subsection (b), the court
22 may enter an ex parte order directing that the child be taken into custody and held in a secure
23 facility designated by the court, if the court finds probable cause that the child violated the
24 court's order to remain in placement without good cause. Pursuant to K.S.A. 2019 Supp. 38-
25 2237, and amendments thereto, the order shall be served on the child's parents, the child's
26 legal custodian and the child's guardian ad litem.

27 (d) *Preliminary hearing.* Within 24 hours following a child's being taken into custody pursuant to
28 an order issued under subsection (c), the court shall hold a preliminary hearing to determine
29 whether the child admits or denies the allegations of the application and, if the child denies the
30 allegations, to determine whether probable cause exists to support the allegations.

31 (1) Notice of the time and place of the preliminary hearing shall be given orally or in writing
32 to the child's parents, the child's legal custodian and the child's guardian ad litem.

33 (2) At the hearing, the child shall have the right to a guardian ad litem and shall be served
34 with a copy of the application.

1 (3) If the child admits the allegations or enters a no contest statement and if the court finds
2 that the admission or no contest statement is knowledgeable and voluntary, the court shall
3 proceed without delay to the placement hearing pursuant to subsection (f).

4 (4) If the child denies the allegations, the court shall determine whether probable cause
5 exists to hold the child in a secure facility pending an evidentiary hearing pursuant to
6 subsection (e). After hearing the evidence, if the court finds that: (A) There is probable
7 cause to believe that the child has violated an order entered pursuant to subsection (a)
8 without good cause; and (B) placement in a secure facility is necessary for the protection of
9 the child or to assure the presence of the child at the evidentiary hearing pursuant to
10 subsection (e), the court may order the child held in a secure facility pending the
11 evidentiary hearing.

12 (e) *Evidentiary hearing.* The court shall hold an evidentiary hearing on an application within 72
13 hours of the child's being taken into custody. Notice of the time and place of the hearing shall
14 be given orally or in writing to the child's parents, the child's legal custodian and the child's
15 guardian ad litem. At the evidentiary hearing, the court shall determine by a clear and
16 convincing evidence whether the child has:

17 (1) Violated a court order entered pursuant to subsection (a) without good cause;

18 (2) been provided at the hearing with the rights enumerated in subsection (d)(2); and

19 (3) been informed of:

20 (A) The nature and consequences of the proceeding;

21 (B) the right to confront and cross-examine witnesses and present evidence;

22 (C) the right to have a transcript or recording of the proceedings; and

23 (D) the right to appeal.

24 (f) *Placement.* (1) If the child admits violating the order entered pursuant to subsection (a) or if,
25 after an evidentiary hearing, the court finds that the child has violated such an order, the court
26 shall immediately proceed to a placement hearing. The court may enter an order awarding
27 custody of the child to:

28 (A) A parent or other legal custodian;

29 (B) a person other than a parent or other person having custody, who shall not be
30 required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
31 and amendments thereto;

32 (C) a youth residential facility; or

1 (D) the secretary, if the secretary does not already have legal custody of the child.

2 (2) The court may authorize the custodian to place the child in a secure facility, if the court
3 determines that all other placement options have been exhausted or are inappropriate,
4 based upon a written report submitted by the secretary, if the child is in the secretary's
5 custody, or submitted by a public agency independent of the court and law enforcement, if
6 the child is in the custody of someone other than the secretary. The report shall detail the
7 behavior of the child and the circumstances under which the child was brought before the
8 court and made subject to the order entered pursuant to subsection (a).

9 (3) The authorization to place the child in a secure facility pursuant to this subsection shall
10 expire 60 days, inclusive of weekend and legal holidays, after its issue. The court may grant
11 extensions of such authorization for two additional periods, each not to exceed 60 days,
12 upon rehearing pursuant to K.S.A. 2019 Supp. 38-2256, and amendments thereto.

13 (4) If the child is placed in a secure facility that is a juvenile detention facility pursuant to
14 this subsection, authorization for such placement shall expire 48 hours, exclusive of
15 weekend and legal holidays, after its issue. No extensions of such authorization shall be
16 granted.

17 (g) *Payment.* The secretary shall only pay for placement and services for a child placed in a
18 secure facility pursuant to subsection (f) upon receipt of a valid court order authorizing secure
19 care placement.

20 (h) *Limitations on facilities used.* Nothing in this section shall authorize placement of a child in
21 an adult jail or lockup.

22 (i) *Time limits, computation.* Except as otherwise specifically provided by subsection (f),
23 Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not
24 accessible shall not be counted in computing any time limit imposed by this section.

25

K.S.A. 38-2304. Jurisdiction; presumption of age of juvenile; placement with department for children and families or juvenile justice authority; costs; precedence of certain orders

1 (a) Except as provided in K.S.A. 38-2347, and amendments thereto, proceedings concerning a
2 juvenile shall be governed by the provisions of this code.

3 (b) The district court shall have original jurisdiction to receive and determine proceedings under
4 this code.

5 (c) When a complaint is filed under this code, the juvenile shall be presumed to be subject to
6 this code, unless the contrary is proved.

7 (d) Once jurisdiction is acquired by the district court over an alleged juvenile offender, except as
8 otherwise provided in subsection (e), jurisdiction shall continue until one of the following
9 occurs:

10 (1) The complaint is dismissed;

11 (2) the juvenile is adjudicated not guilty at trial;

12 (3) the juvenile, after being adjudicated guilty and sentenced:

13 (i) Successfully completes the term of probation;

14 (ii) is discharged by the secretary pursuant to K.S.A. 38-2376, and amendments
15 thereto;

16 (iii) reaches the juvenile's 21st birthday and no exceptions apply that extend
17 jurisdiction beyond age 21; or

18 (iv) reaches the overall case length limit;

19 (4) the court terminates jurisdiction; or

20 (5) the juvenile is convicted of a crime as an adult pursuant to chapter 22 of the Kansas
21 Statutes Annotated, and amendments thereto.

22 (e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it shall
23 continue beyond the juvenile offender's 21st birthday but no later than the juvenile offender's
24 23rd birthday if:

25 (1) The juvenile offender is sentenced pursuant to K.S.A. 38-2369, and amendments
26 thereto, and the term of the sentence including successful completion of conditional
27 release extends beyond the juvenile offender's 21st birthday but does not extend
28 beyond the overall case length limit; or

1 (2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile
2 prosecution and continues to successfully serve the sentence imposed pursuant to the
3 revised Kansas juvenile justice code.

4 (f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile
5 offender's continuing responsibility to pay restitution ordered.

6 (g)(1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the
7 custody of the secretary for children and families under the Kansas code for care of children,
8 the sentencing court may order the continued placement of the juvenile offender as a child in
9 need of care.

10 (2) Court services, community corrections and the department of corrections shall
11 address the risks and needs of the juvenile offender according to the results of the risk
12 and needs assessment.

13 ~~(3) If the juvenile offender is placed in the custody of the secretary of corrections, the~~
14 ~~secretary for children and families shall be responsible for collaborating with the~~
15 ~~department of corrections to furnish services ordered in the child in need of care~~
16 ~~proceeding during the time of the placement pursuant to the revised Kansas juvenile~~
17 ~~justice code. Nothing in this subsection shall preclude the juvenile offender from~~
18 ~~accessing services provided by the Kansas department for children and families or any~~
19 ~~other state agency if the juvenile offender is otherwise eligible for the services.~~

20 (h) If a juvenile or juvenile offender is eligible to receive services from the department for
21 children and families, the department of corrections or the judicial branch, such agencies shall
22 collaborate to provide such services. Nothing in this code shall preclude the juvenile or juvenile
23 offender from accessing services provided by the department for children and families,
24 department of corrections, the judicial branch or any other state agency if the juvenile or
25 juvenile offender is otherwise eligible for the services.

26 ~~(h)~~ A court's order issued in a proceeding pursuant to this code, shall take precedence over
27 such orders in a proceeding under chapter 23 of the Kansas Statutes Annotated, and
28 amendments thereto, the Kansas family law code, a proceeding under article 31 of chapter 60
29 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, a
30 proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments
31 thereto, adoption and relinquishment act, a proceeding under article 30 of chapter 59 of the
32 Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or a
33 comparable case in another jurisdiction, except as provided by K.S.A. 23-37,101 et seq., and
34 amendments thereto, uniform child custody jurisdiction and enforcement act.

***K.S.A. 38-2330. Juvenile taken into custody, when;
procedure; release; detention in jail; notice to appear***

1 (a) A law enforcement officer may take a juvenile into custody when:

2 (1) Any offense has been or is being committed in the officer's view;

3 (2) the officer has a warrant commanding that the juvenile be taken into custody;

4 (3) the officer has probable cause to believe that a warrant or order commanding that
5 the juvenile be taken into custody has been issued in this state or in another jurisdiction
6 for an act committed therein;

7 (4) the officer has probable cause to believe that the juvenile is committing or has
8 committed an act which, if committed by an adult, would constitute:

9 (A) A felony; or

10 (B) a misdemeanor and: (i) The juvenile will not be apprehended or evidence of
11 the offense will be irretrievably lost unless the juvenile is immediately taken into
12 custody; or (ii) the juvenile may pose a significant risk of harm to cause injury to
13 self, another or others or damage to property or may be injured-harmed unless
14 immediately taken into custody;

15 (5) the officer has probable cause to believe that the juvenile has violated an order for
16 electronic monitoring as a term of probation; or

17 (6) the officer receives a written statement pursuant to subsection (c).

18 (b) A court services officer, juvenile community corrections officer or other person authorized
19 to supervise juveniles subject to this code, may take a juvenile into custody when: (1) There is a
20 warrant commanding that the juvenile be taken into custody; ~~or~~ (2) the officer has there is
21 probable cause to believe that a warrant or order commanding that the juvenile be taken into
22 custody has been issued in this state or in another jurisdiction for an act committed therein or
23 (3) the officer has there is probable cause to believe the juvenile may pose a significant risk of
24 harm to self, another or damage to property or may be harmed unless immediately taken into
25 custody.

26 (c) Any court services officer, juvenile community corrections officer or other person authorized
27 to supervise juveniles subject to this code, may request a warrant by giving the court a written
28 statement setting forth that the juvenile, in the judgment of the court services officer, juvenile
29 community corrections officer or other person authorized to supervise juveniles subject to this
30 code:

31 (1)(A) Has violated the condition of ~~the juvenile's conditional~~ release from detention or
32 probation, for the third or subsequent time; and

1 (B) poses a significant risk of ~~physical~~ harm to self, another or damage to
2 property; or

3 (2) has absconded from supervision.

4 (d)(1) A juvenile taken into custody by a law enforcement officer or other person authorized
5 pursuant to subsection (b) shall be brought without unnecessary delay to the custody of the
6 juvenile's parent or other custodian, unless there are reasonable grounds to believe that such
7 action would not be in the best interests of the ~~child juvenile~~ or would pose a risk of harm to
8 self, another, public safety, or damage to property. ~~to public safety or property.~~

9 (2) If the juvenile cannot be delivered to the juvenile's parent or custodian, the officer
10 may:

11 (A) Issue a notice to appear pursuant to subsection (g);

12 (B) contact or deliver the juvenile to an intake and assessment worker for
13 completion of the intake and assessment process pursuant to K.S.A. 75-7023,
14 and amendments thereto; ~~or~~

15 (C) if the juvenile is determined to not be detention eligible based on a
16 standardized detention risk assessment tool and is experiencing a mental health
17 crisis, deliver a juvenile to a juvenile crisis intervention center, as described
18 in K.S.A. 65-536, and amendments thereto, after written authorization by a
19 community mental health center; or

20 (D) regardless of whether the juvenile is determined to be detention eligible
21 based on a standardized detention risk assessment tool, if the juvenile poses a
22 significant risk of harm to self, and no other more appropriate placement option
23 is available, the juvenile may be placed in detention for up to 48 hours, excluding
24 Saturdays, Sundays and legal holidays. The juvenile shall be released from
25 detention by order of the court before or at the conclusion of the 48 hours.

26
27 (3) It shall be the duty of the officer to furnish the county or district attorney and the
28 juvenile intake and assessment worker if the officer has delivered the juvenile to the
29 worker or issued a notice to appear consistent with subsection (g), with all of the
30 information in the officer's possession pertaining to the juvenile, the juvenile's parent or
31 other persons interested in or likely to be interested in the juvenile and all other facts
32 and circumstances which caused the juvenile to be arrested or taken into custody.

33 (e) In the absence of a court order to the contrary, the court or officials designated by the
34 court, the county or district attorney or the law enforcement agency taking a juvenile into
35 custody shall direct the release prior to the time specified by K.S.A. 38-2343(a), and
36 amendments thereto. In addition, pursuant to K.S.A. 75-7023 and K.S.A. 38-2346, and

1 amendments thereto, a juvenile intake and assessment worker shall direct the release of a
2 juvenile prior to a detention hearing after the completion of the intake and assessment process.

3 (f) Whenever a person 18 years of age or more is taken into custody by a law enforcement
4 officer for an alleged offense which was committed prior to the time the person reached the
5 age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to
6 this code, except that the provisions of this code relating to detention hearings shall not apply
7 to that person. If such person is eligible for detention, and all suitable alternatives to detention
8 have been exhausted, the person shall be detained in jail. Unless the law enforcement officer
9 took the person into custody pursuant to a warrant issued by the court and the warrant
10 specifies the amount of bond or indicates that the person may be released on personal
11 recognizance, the person shall be taken before the court of the county where the alleged act
12 took place or, at the request of the person, the person shall be taken, without delay, before the
13 nearest court. The court shall fix the terms and conditions of an appearance bond upon which
14 the person may be released from custody. The provisions of article 28 of chapter 22 of the
15 Kansas Statutes Annotated and K.S.A. 22-2901, and amendments thereto, relating to
16 appearance bonds and review of conditions and release shall be applicable to appearance
17 bonds provided for in this section.

18 (g)(1) Whenever a law enforcement officer detains any juvenile and such juvenile is not
19 immediately taken to juvenile intake and assessment services, the officer may serve upon such
20 juvenile a written notice to appear. Such notice to appear shall contain the name and address
21 of the juvenile detained, the crime charged and the location and phone number of the juvenile
22 intake and assessment services office where the juvenile will need to appear with a parent or
23 guardian.

24 (2) The juvenile intake and assessment services office specified in such notice to appear
25 must be contacted by the juvenile or a parent or guardian no more than 48 hours after
26 such notice is given, excluding weekends and holidays.

27 (3) The juvenile detained, in order to secure release as provided in this section, must
28 give a written promise to call within the time specified by signing the written notice
29 prepared by the officer. The original notice shall be retained by the officer and a copy
30 shall be delivered to the juvenile detained and that juvenile's parent or guardian if such
31 juvenile is under 18 years of age. The officer shall then release the juvenile.

32 (4) The law enforcement officer shall cause to be filed, without unnecessary delay, a
33 complaint with juvenile intake and assessment services in which a juvenile released
34 pursuant to paragraph (3) is given notice to appear, charging the crime stated in such
35 notice. A copy shall also be provided to the district or county attorney. If the juvenile
36 released fails to contact juvenile intake and assessment services as required in the
37 notice to appear, juvenile intake and assessment services shall notify the district or
38 county attorney.

39 (5) The notice to appear served pursuant to paragraph (1) and the complaint filed
40 pursuant to paragraph (4) may be provided to the juvenile in a single citation.

K.S.A. 38-2331. Criteria for detention of juvenile in detention facility

1 (a) The court shall not enter an order removing a juvenile from the custody of a parent
2 pursuant to this section unless the court first finds that a detention risk assessment conducted
3 pursuant to K.S.A. 75-7023(d), and amendments thereto, has assessed the juvenile as
4 detention-eligible or there are grounds to override the results of a detention risk assessment
5 tool and the court finds probable cause that:

6 (1) Community-based alternatives to detention are insufficient to:

7 (A) Secure the presence of the juvenile at the next hearing as evidenced by a
8 demonstrable record of recent failures to appear at juvenile court proceedings
9 and an exhaustion of detention alternatives; ~~or~~

10 (B) protect the physical safety of another person or property from serious threat
11 if the juvenile is not detained; ~~or and~~

12 (C) protect the juvenile from harm to self if the juvenile is not detained; and

13 (2) The court shall state the basis for each finding in writing.

14 (b) Community-based alternatives to detention shall include, but not be limited to:

15 (1) Release on the youth's promise to appear;

16 (2) release to a parent, guardian or custodian upon the youth's assurance to secure such
17 youth's appearance;

18 (3) release with the imposition of reasonable restrictions on activities, associations,
19 movements and residence specifically related to securing the youth's appearance at the
20 next court hearing;

21 (4) release to a voluntary community supervision program;

22 (5) release to a mandatory, court-ordered community supervision program;

23 (6) release with mandatory participation in an electronic monitoring program with
24 minimal restrictions on the youth's movement; or

25 (7) release with mandatory participation in an electronic monitoring program allowing
26 the youth to leave home only to attend school, work, court hearings or other court-
27 approved activities.

28 (c) No juvenile shall be placed in a juvenile detention center solely due to:

29 (1) A lack of supervision alternatives or service options;

30 (2) a parent avoiding legal responsibility;

- 1 (3) ~~a risk of self-harm;~~
- 2 (~~4~~) indirect contempt of court;
- 3 (5) a violation of a valid court order; or
- 4 (6) technical violations of conditional release unless there is probable cause that the
- 5 juvenile poses a significant risk of harm to self, others-another or damage to property or
- 6 the applicable graduated responses or sanctions protocol allows such placement.
- 7 (d) No person 18 years of age or more shall be placed in a juvenile detention center.

8

K.S.A. 38-2344. First appearance; plea.

(a) When the juvenile appears without an attorney in response to a complaint, the court shall inform the juvenile of the following:

(1) The nature of the charges in the complaint;

(2) the right to hire an attorney of the juvenile's own choice;

(3) the duty of the court to appoint an attorney for the juvenile if no attorney is hired by the juvenile or parent; and

(4) that the court may require the juvenile or parent to pay the expense of a court appointed attorney; ~~and~~

~~(5) the right to be offered an immediate intervention pursuant to K.S.A. 2019 Supp. 38-2346, and amendments thereto.~~

Upon request the court shall give the juvenile or parent an opportunity to hire an attorney. If no request is made or the juvenile or parent is financially unable to hire an attorney, the court shall promptly appoint an attorney for the juvenile. The court shall afford the juvenile an opportunity to confer with the attorney before requiring the juvenile to plead to the allegations of the complaint.

(b) When the juvenile appears with an attorney in response to a complaint, the court shall require the juvenile to plead guilty, nolo contendere or not guilty to the allegations stated in the complaint, unless there is an application for and approval of an immediate intervention program. Prior to making this requirement, the court shall inform the juvenile of the following:

(1) The nature of the charges in the complaint;

(2) the right of the juvenile to be presumed innocent of each charge;

(3) the right to jury trial without unnecessary delay;

(4) the right to confront and cross-examine witnesses appearing in support of the allegations of the complaint;

(5) the right to subpoena witnesses;

(6) the right of the juvenile to testify or to decline to testify; and

(7) the sentencing alternatives the court may select as the result of the juvenile being adjudicated a juvenile offender.

(c) If the juvenile pleads guilty to the allegations contained in a complaint or pleads nolo contendere, the court shall determine, before accepting the plea and entering a sentence: (1) That there has been a voluntary waiver of the rights enumerated in subsections (b)(2), (3), (4), (5) and (6); and (2) that there is a factual basis for the plea.

(d) If the juvenile pleads not guilty, the court shall schedule a time and date for trial to the court.

(e) First appearance may be conducted by two-way electronic audio-video communication between the juvenile and the judge in lieu of personal presence of the juvenile or the juvenile's

1 attorney in the courtroom from any location within Kansas in the discretion of the court. The
2 juvenile may be accompanied by the juvenile's attorney during such proceedings or the
3 juvenile's attorney may be personally present in court as long as a means of confidential
4 communication between the juvenile and the juvenile's attorney is available.
5

1 **K.S.A. 38-2346. Immediate intervention programs.**
2

3 (a)(1) Each ~~director of juvenile intake and assessment services in collaboration with the~~ county
4 or district attorney ~~shall, in collaboration with the director of juvenile intake and assessment~~
5 ~~services, may~~ adopt a policy and establish guidelines for ~~an~~ pre-file immediate intervention
6 process by which a juvenile may avoid prosecution. ~~The guidelines may include information on~~
7 ~~any offenders beyond those enumerated in subsection (b)(1) that shall be referred to~~
8 ~~immediate intervention.~~ In addition to ~~juvenile intake and assessment services~~ the county or
9 district attorney adopting policies and guidelines for the pre-file immediate intervention
10 process, the court, ~~the county or district attorney~~, the director of the intake and assessment
11 center and other relevant individuals or organizations, pursuant to a written agreement,
12 ~~may~~ shall collaboratively develop local programs to:

13 ~~(1) Provide for the direct referral of cases to immediate intervention programs by the~~
14 ~~county or district attorney and the intake and assessment worker.~~

15 ~~(2) Allow intake and assessment workers to issue a summons, as defined in subsection (e)~~
16 ~~and if juvenile intake and assessment services has adopted appropriate policies and guidelines,~~
17 ~~allow law enforcement officers to issue such a summons.~~

18 ~~(A3)~~ Allow the intake and assessment centers and other immediate intervention program
19 providers to directly purchase services for the juvenile and the juvenile's family.

20 ~~(B4)~~ Allow intake and assessment workers to direct the release of a juvenile prior to a
21 detention hearing after the completion of the intake and assessment process pursuant to
22 K.S.A. 75-7023, and amendments thereto.

23 ~~(b)(1)(2)~~ A juvenile who goes through the juvenile intake and assessment process pursuant
24 to K.S.A. 75-7023, and amendments thereto, ~~shall~~ may be offered the opportunity to
25 participate in an pre-file immediate intervention program and avoid prosecution ~~if the juvenile~~
26 ~~is charged with a misdemeanor that is not an offense described in article 55 of chapter 21 of~~
27 ~~the Kansas Statutes Annotated, and amendments thereto, or a violation of K.S.A. 2019~~
28 ~~Supp. 21-5507, and amendments thereto, the juvenile has no prior adjudications, and the offer~~
29 ~~is made pursuant to the guidelines developed pursuant to this section. Participation in an~~
30 ~~immediate intervention program is not required to be offered to a juvenile who was originally~~
31 ~~charged with an offense which, if committed by an adult, would constitute a felony and, as a~~
32 ~~result of a plea agreement reached between the juvenile and prosecuting attorney, the charge~~
33 ~~has been amended to a misdemeanor. A juvenile who has participated in an immediate~~
34 ~~intervention program for a previous misdemeanor may, but is not required to, be offered~~
35 ~~participation in an immediate intervention program.~~

36 ~~(2) A juvenile may also participate in an immediate intervention program if the juvenile is~~
37 ~~referred for immediate intervention by the county or district attorney pursuant to subsection~~
38 ~~(d).~~

1 ~~(3) Any juvenile referred to immediate intervention by juvenile intake and assessment~~
2 ~~services shall, upon acceptance, work together with court services, community corrections,~~
3 ~~juvenile intake and assessment services or any other entity designated as a part of the written~~
4 ~~agreement in subsection (a) to develop an immediate intervention plan. Such plan may be~~
5 ~~supervised or unsupervised by any of the aforementioned entities. The county or district~~
6 ~~attorneys office shall not be required to supervise juveniles participating in an immediate~~
7 ~~intervention program. For juveniles that have fewer than two prior adjudications, the county or~~
8 ~~district attorney shall review the case to determine if the juvenile should be offered pre-file~~
9 ~~immediate intervention or whether alternative means of adjudication should be designated~~
10 ~~pursuant to K.S.A. 2019 38-2389, and amendments thereto. The county or district attorney may~~
11 ~~consider any recommendation of a juvenile intake and assessment worker, court services~~
12 ~~officer or community corrections officer.~~

13 (43) The A pre-file immediate intervention plan shall last no longer than six months from
14 the date of referral, unless the plan requires the juvenile to complete an evidence-based
15 mental health or substance abuse program that extends beyond the six-month period. In such
16 case, the plan may be extended up to for no more than two additional months.

17 (45) If the juvenile satisfactorily complies with the terms of a pre-file immediate
18 intervention plan, such juvenile shall be discharged ~~and the charges dismissed~~ at the end of the
19 time period specified in paragraph (34) and charges in such juvenile's case shall not be filed
20 with the court.

21 (56) If the juvenile fails to satisfactorily comply with the terms of a pre-file immediate
22 intervention plan, the case shall be referred to a multidisciplinary team for review. The
23 multidisciplinary team created pursuant to K.S.A. 2019 Supp. 38-2393, and amendments
24 thereto, shall review the pre-file immediate intervention plan within seven days and may revise
25 and extend such plan, refer the case to the county or district attorney for consideration of filing
26 charges in court or terminate the case as successful. Such plan may be extended for no more
27 than four additional months.

28 ~~(7) If the juvenile fails to satisfactorily comply with the revised plan developed pursuant to~~
29 ~~paragraph (6), the intake and assessment worker, court services officer or community~~
30 ~~corrections officer overseeing the immediate intervention shall refer the case to the county or~~
31 ~~district attorney for consideration.~~

32 ~~(c) The parent of a juvenile may be required to be a part of the immediate intervention~~
33 ~~program.~~

34 ~~(d) For all juveniles that have fewer than two prior adjudications, the county or district~~
35 ~~attorney shall review the case upon receipt of a complaint to determine if the case should be~~
36 ~~referred for immediate intervention or whether alternative means of adjudication should be~~
37 ~~designated pursuant to K.S.A. 2019 Supp. 38-2389, and amendments thereto. The county or~~
38 ~~district attorney shall consider any recommendation of a juvenile intake and assessment~~
39 ~~worker, court services officer or community corrections officer.~~

1 ~~(e) "Summons" means a written order issued by an intake and assessment worker or a law~~
2 ~~enforcement officer directing that a juvenile appear before a designated court at a stated time~~
3 ~~and place to answer a pending charge.~~

4 (b) Each county or district attorney may adopt a policy and establish guidelines for a post-
5 file immediate intervention process.

6 (1) A post-file immediate intervention program may include a stipulation, agreed to by
7 the juvenile, the juvenile's attorney and the county or district attorney, of facts upon
8 which the charge is based and a provision that if the juvenile fails to fulfill the terms of
9 the specific post-file immediate intervention agreement and prosecution is resumed,
10 the proceeding, including any proceedings on appeal, shall be conducted on the record
11 of the stipulation of facts.

12 (2) A post-file immediate intervention program shall last no longer than the probation
13 length limit for the same offense as provided in K.S.A. 2019 Supp. 38-2391, and
14 amendments thereto.

15 (cf) A juvenile who is eligible for a ~~a~~ pre-file or post-file immediate intervention shall not be
16 denied participation in such a program or terminated unsuccessfully due to an inability to pay
17 fees or other associated costs. Fees assessed from such a program shall be retained by the
18 program and shall not be used for any purpose, except development and operation of the
19 program.

20 ~~(g) If a juvenile substantially complies with an immediate intervention program, charges in~~
21 ~~such juvenile's case shall not be filed.~~

22 ~~(h) The policies and guidelines developed pursuant to subsection (a) shall adhere to~~
23 ~~standards and procedures for immediate intervention developed by the department of~~
24 ~~corrections pursuant to K.S.A. 2019 Supp. 38-2395, and amendments thereto, and be based on~~
25 ~~best practices.~~

26 (d) The parent of a juvenile may be required to be part of any pre-file or post-file
27 immediate intervention program.

28 (ie) Nothing in this section shall require a juvenile to participate in a ~~a~~ pre-file or post-file
29 immediate intervention program when the county or district attorney has declined to continue
30 with prosecution of an alleged offense.

31 (f) The county or district attorney may collaborate with court services or community
32 corrections for the supervision of juveniles participating in pre-file or post-file immediate
33 intervention programs.

34 (g) Nothing in this section shall limit the duties of the county or district attorney provided
35 by K.S.A. 38-2327, and amendments thereto.

1 (h) For the purposes of this section:

2 (1) “Pre-file immediate intervention program” means a pre-file, non-court ordered plan
3 by which a juvenile may avoid the filing of charges with the district court and avoid prosecution;
4 and

5 (2) “Post-file immediate intervention program” means a court-ordered plan to avoid
6 prosecution after the filing of charges with the district court.

7

K.S.A. 38-2347. Prosecution as an adult; extended jurisdiction juvenile prosecution; burden of proof; authorization

1 (a)(1) Except as otherwise provided in this section, at any time after commencement of
2 proceedings under this code against a juvenile and prior to the beginning of an evidentiary
3 hearing at which the court may enter a sentence as provided in K.S.A. 38-2356, and
4 amendments thereto, the county or district attorney or the county or district attorney's
5 designee may file a motion requesting that the court authorize prosecution of the juvenile as an
6 adult under the applicable criminal statute. The juvenile shall be presumed to be a juvenile, and
7 the presumption must be rebutted by a preponderance of the evidence. No juvenile less than
8 14 years of age shall be prosecuted as an adult.

9 (2) At any time after commencement of proceedings under this code against a juvenile
10 offender ~~for an offense which, if committed by an adult, would constitute an off-grid~~
11 ~~felony or a nondrug severity level 1 through 4 person felony,~~ and prior to the beginning
12 of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A.
13 38-2356, and amendments thereto, the county or district attorney or the county or
14 district attorney's designee may file a motion requesting that the court designate the
15 proceedings as an extended jurisdiction juvenile prosecution.

16 (3) If the county or district attorney or the county or district attorney's designee files a
17 motion to designate the proceedings as an extended jurisdiction juvenile prosecution,
18 the burden of proof is on the prosecutor to prove the juvenile should be designated as
19 an extended jurisdiction juvenile.

20 (b)(1) Upon receiving the motion, the court shall set a time and place for hearing. The court
21 shall give notice of the hearing to the juvenile, each parent, if service is possible, and the
22 attorney representing the juvenile. The motion shall be heard and determined prior to any
23 further proceedings on the complaint.

24 (2) At the hearing, the court shall inform the juvenile of the following:

25 (A) The nature of the charges in the complaint;

26 (B) the right of the juvenile to be presumed innocent of each charge;

27 (C) the right to trial without unnecessary delay and to confront and cross-
28 examine witnesses appearing in support of the allegations of the complaint;

29 (D) the right to subpoena witnesses;

30 (E) the right of the juvenile to testify or to decline to testify; and

31 (F) the sentencing alternatives the court may select as the result of the juvenile
32 being prosecuted under an extended jurisdiction juvenile prosecution.

1 (c) If the juvenile fails to appear for hearing on the motion after having been served with notice
2 of the hearing, the court may hear and determine the motion in the absence of the juvenile. If
3 the court is unable to obtain service of process and give notice of the hearing, the court may
4 hear and determine the motion in the absence of the alleged juvenile offender after having
5 given notice of the hearing at least once a week for two consecutive weeks in the official county
6 newspaper of the county where the hearing will be held.

7 (d) In determining whether or not prosecution as an adult should be authorized or designating
8 the proceeding as an extended jurisdiction juvenile prosecution, the court shall consider each
9 of the following factors:

10 (1) The seriousness of the alleged offense and whether the protection of the community
11 requires prosecution as an adult or designating the proceeding as an extended
12 jurisdiction juvenile prosecution;

13 (2) whether the alleged offense was committed in an aggressive, violent, premeditated
14 or willful manner;

15 (3) whether the offense was against a person or against property. Greater weight shall
16 be given to offenses against persons, especially if personal injury resulted;

17 (4) the number of alleged offenses unadjudicated and pending against the juvenile;

18 (5) the previous history of the juvenile, including whether the juvenile had been
19 adjudicated a juvenile offender under this code or the Kansas juvenile justice code and,
20 if so, whether the offenses were against persons or property, and any other previous
21 history of antisocial behavior or patterns of physical violence;

22 (6) the sophistication or maturity of the juvenile as determined by consideration of the
23 juvenile's home, environment, emotional attitude, pattern of living or desire to be
24 treated as an adult;

25 (7) whether there are facilities or programs available to the court which are likely to
26 rehabilitate the juvenile prior to the expiration of the court's jurisdiction under this
27 code; and

28 (8) whether the interests of the juvenile or of the community would be better served by
29 criminal prosecution or extended jurisdiction juvenile prosecution.

30 The insufficiency of evidence pertaining to any one or more of the factors listed in this
31 subsection, in and of itself, shall not be determinative of the issue. Subject to the provisions
32 of K.S.A. 38-2354, and amendments thereto, written reports and other materials relating to the
33 juvenile's mental, physical, educational and social history may be considered by the court.

34 (e)(1) The court may authorize prosecution as an adult upon completion of the hearing if the
35 court finds from a preponderance of the evidence that the alleged juvenile offender should be
36 prosecuted as an adult for the offense charged. In that case, the court shall direct the alleged

1 juvenile offender be prosecuted under the applicable criminal statute and that the proceedings
2 filed under this code be dismissed.

3 (2) The court may designate the proceeding as an extended jurisdiction juvenile
4 prosecution upon completion of the hearing if the court finds from a preponderance of
5 the evidence that the juvenile should be prosecuted under an extended jurisdiction
6 juvenile prosecution.

7 (3) After a proceeding in which prosecution as an adult is requested pursuant to
8 subsection (a)(2), and prosecution as an adult is not authorized, the court may designate
9 the proceedings to be an extended jurisdiction juvenile prosecution.

10 (4) A juvenile who is the subject of an extended jurisdiction juvenile prosecution shall
11 have the right to a trial by jury, to the effective assistance of counsel and to all other
12 rights of a defendant pursuant to the Kansas code of criminal procedure. Each court
13 shall adopt local rules to establish the basic procedures for extended jurisdiction
14 juvenile prosecution in such court's jurisdiction.

15

1 ***K.S.A. 38-2361. Sentencing alternatives***

2 (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 38-2356, and amendments
3 thereto, modification of sentence pursuant to K.S.A. 38-2367, and amendments thereto, or
4 violation of a condition of sentence pursuant to K.S.A. 38-2368, and amendments thereto, the
5 court may impose one or more of the following sentencing alternatives for a fixed period
6 pursuant to K.S.A. 38-2369 and 38-2391, and amendments thereto.

7 (1) Place the juvenile on probation for a fixed period pursuant to K.S.A. 38-2391, and
8 amendments thereto, subject to terms and conditions the court deems appropriate
9 consistent with juvenile justice programs in the community. Any juvenile placed on
10 probation shall be supervised according to the juvenile's risk and needs as determined
11 by a risk and needs assessment. Placement of juvenile offenders to community
12 corrections for probation supervision shall be limited to offenders adjudicated for an
13 offense that are determined to be moderate-risk, high-risk or very high-risk on a risk and
14 needs assessment using the cutoff scores established by the secretary pursuant to K.S.A.
15 38-2360, and amendments thereto.

16 (2) Order the juvenile to participate in a community based program available in such
17 judicial district subject to the terms and conditions the court deems appropriate. This
18 alternative shall not be ordered with the alternative in paragraph (11). Requirements
19 pertaining to child support may apply if custody is vested with other than a parent.

20 (3) Place the juvenile in the custody of a parent or other suitable person, which is not a
21 group home or other facility licensed pursuant to article 5 of chapter 65 of the Kansas
22 Statutes Annotated, and amendments thereto, subject to terms and conditions
23 consistent with juvenile justice programs in the community. This alternative shall not be
24 ordered with the alternative in paragraph (11). Requirements pertaining to child support
25 may apply if custody is vested with other than a parent.

26 (4) Order the juvenile to attend counseling, educational, mediation or other sessions, or
27 to undergo a drug evaluation pursuant to subsection (b).

28 (5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor
29 vehicle on the streets and highways of this state pursuant to subsection (c).

30 (6) Order the juvenile to perform charitable or community service work.

31 (7) Order the juvenile to make appropriate reparation or restitution pursuant to
32 subsection (d).

33 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

1 (9) Place the juvenile under a house arrest program administered by the court pursuant
2 to K.S.A. 21-6609, and amendments thereto.

3 ~~(10) Place the juvenile in the custody of the secretary of corrections as provided in K.S.A.
4 38-2365, and amendments thereto. This alternative shall not be ordered with the
5 alternative in paragraph (3) or (12). Except for mandatory drug and alcohol evaluation,
6 when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
7 orders shall constitute a recommendation by the court. Requirements pertaining to
8 child support shall apply under this alternative. The provisions of this paragraph shall
9 expire on January 1, 2018.~~

10 (10~~1~~) Upon a violation of a condition of sentence, other than a technical violation
11 pursuant to K.S.A. 38-2368, and amendments thereto, commit the juvenile to detention
12 ~~for a period no longer than 30 days~~ subject to the provisions of subsection (g).

13 (11~~2~~) If the judge finds and enters into the written record that the juvenile poses a
14 significant risk of harm to another or damage to property, and the juvenile is otherwise
15 eligible for commitment pursuant to K.S.A. 38-2369, and amendments thereto, commit
16 the juvenile directly to the custody of the secretary of corrections for placement in a
17 juvenile correctional facility or a youth residential facility. Placement in a youth
18 residential facility shall only be permitted as authorized in K.S.A. 38-2369(e), and
19 amendments thereto. If the court elects, a period of conditional release pursuant
20 to K.S.A. 38-2369, and amendments thereto, may also be ordered. The period of
21 conditional release shall be limited to a maximum of six months and shall be subject to
22 graduated responses. Twenty-one days prior to the juvenile's release from a juvenile
23 correctional facility, the secretary of corrections or designee shall notify the court of the
24 juvenile's anticipated release date. This alternative may be ordered with the alternative
25 in paragraph (7). Requirements pertaining to child support shall apply under this
26 alternative.

27 (13~~2~~) Upon a finding by the trier of fact during adjudication that a firearm was used
28 in the commission of an offense by the accused which, if committed by an adult, would
29 constitute a felony, a judge may commit the juvenile directly to the custody of the
30 secretary of corrections for placement in a juvenile correctional facility or youth
31 residential facility for a minimum term of six months and up to a maximum term of 18
32 months, regardless of the risk level of such juvenile as determined by a risk and needs
33 assessment. If the juvenile is committed to the custody of the secretary, and the court
34 elects, a period of conditional release, pursuant to K.S.A. 38-2369, and amendments
35 thereto, may also be ordered. The period of conditional release shall be limited to a
36 maximum of six months and shall be subject to graduated responses. Twenty-one days

1 prior to the juvenile's release from a juvenile correctional facility or youth residential
2 facility, the secretary of corrections or the secretary's designee shall notify the court of
3 the juvenile's anticipated release date.

4 (b) If the court orders the juvenile to attend counseling, educational, mediation or other
5 sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the
6 following provisions apply:

7 (1) The court may order the juvenile offender to participate in counseling or mediation
8 sessions or a program of education, including placement in an alternative educational
9 program approved by a local school board. The costs of any counseling or mediation
10 may be assessed as expenses in the case. No mental health center shall charge a fee for
11 court-ordered counseling greater than what the center would have charged the person
12 receiving the counseling if the person had requested counseling on the person's own
13 initiative. No mediator shall charge a fee for court-ordered mediation greater than what
14 the mediator would have charged the person participating in the mediation if the
15 person had requested mediation on the person's own initiative. Mediation may include
16 the victim but shall not be mandatory for the victim; and

17 (2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a
18 statute that makes such a requirement, the court shall order and, if adjudicated for any
19 other offense, the court may order the juvenile to submit to and complete a drug and
20 alcohol evaluation by a community-based drug and alcohol safety action program
21 certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to
22 exceed the fee established by that statute for such evaluation. The court may waive the
23 mandatory evaluation if the court finds that the juvenile completed a drug and alcohol
24 evaluation, approved by the community-based alcohol and drug safety action program,
25 within 12 months before sentencing. If the evaluation occurred more than 12 months
26 before sentencing, the court shall order the juvenile to resubmit to and complete the
27 evaluation and program as provided herein. If the court finds that the juvenile and those
28 legally liable for the juvenile's support are indigent, the court may waive the fee. In no
29 event shall the fee be assessed against the secretary of corrections or the department of
30 corrections nor shall the fee be assessed against the secretary of the department for
31 children and families or the Kansas department for children and families if the juvenile is
32 in the secretary's care, custody and control.

33 (c) If the court orders suspension or restriction of a juvenile offender's driver's license or
34 privilege to operate a motor vehicle on the streets and highways of this state pursuant to
35 subsection (a)(5), the following provisions apply:

1 (1) The duration of the suspension ordered by the court shall be for a definite time
2 period to be determined by the court. Upon suspension of a license pursuant to this
3 subsection, the court shall require the juvenile offender to surrender the license to the
4 court. The court shall transmit the license to the division of motor vehicles of the
5 department of revenue, to be retained until the period of suspension expires. At that
6 time, the licensee may apply to the division for return of the license. If the license has
7 expired, the juvenile offender may apply for a new license, which shall be issued
8 promptly upon payment of the proper fee and satisfaction of other conditions
9 established by law for obtaining a license unless another suspension or revocation of
10 the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this
11 subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-
12 1473, and amendments thereto. Any juvenile offender who does not have a driver's
13 license may have driving privileges revoked. No Kansas driver's license shall be issued to
14 a juvenile offender whose driving privileges have been revoked pursuant to this section
15 for a definite time period to be determined by the court; and

16 (2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a
17 motor vehicle on the highways of this state, the court may enter an order which places
18 conditions on the juvenile offender's privilege of operating a motor vehicle on the
19 streets and highways of this state, a certified copy of which the juvenile offender shall
20 be required to carry any time the juvenile offender is operating a motor vehicle on the
21 streets and highways of this state. The order shall prescribe a definite time period for
22 the conditions imposed. Upon entering an order restricting a juvenile offender's license,
23 the court shall require the juvenile offender to surrender such juvenile offender's
24 license to the court. The court shall transmit the license to the division of vehicles,
25 together with a copy of the order. Upon receipt thereof, the division of vehicles shall
26 issue without charge a driver's license which shall indicate on its face that conditions
27 have been imposed on the juvenile offender's privilege of operating a motor vehicle and
28 that a certified copy of the order imposing the conditions is required to be carried by
29 the juvenile offender when operating a motor vehicle on the streets and highways of
30 this state. If the juvenile offender is a nonresident, the court shall cause a copy of the
31 order to be transmitted to the division and the division shall forward a copy of it to the
32 motor vehicle administrator of the juvenile offender's state of issuance. The court shall
33 furnish to any juvenile offender whose driver's license has had conditions imposed on it
34 under this section a copy of the order, which shall be recognized as a valid Kansas
35 driver's license until the division issues the restricted license provided for in this
36 subsection. Upon expiration of the period of time for which conditions are imposed
37 pursuant to this subsection, the juvenile offender may apply to the division for the
38 return of the license previously surrendered by the juvenile offender. In the event the

1 license has expired, the juvenile offender may apply to the division for a new license,
2 which shall be issued immediately by the division upon payment of the proper fee and
3 satisfaction of the other conditions established by law unless such juvenile offender's
4 privilege to operate a motor vehicle on the streets and highways of this state has been
5 suspended or revoked prior thereto. If any juvenile offender violates any of the
6 conditions imposed under this subsection, the juvenile offender's driver's license or
7 privilege to operate a motor vehicle on the streets and highways of this state shall be
8 revoked for a period as determined by the court in which the juvenile offender is
9 convicted of violating such conditions.

10 (d) The following provisions apply to the court's determination of whether to order reparation
11 or restitution pursuant to subsection (a)(7):

12 (1) The court shall order the juvenile to make reparation or restitution to the aggrieved
13 party for the damage or loss caused by the juvenile offender's offense unless it finds
14 compelling circumstances that would render a plan of reparation or restitution
15 unworkable. If the court finds compelling circumstances that would render a plan of
16 reparation or restitution unworkable, the court shall enter such findings with
17 particularity on the record. In lieu of reparation or restitution, the court may order the
18 juvenile to perform charitable or social service for organizations performing services for
19 the community; and

20 (2) restitution may include, but shall not be limited to, the amount of damage or loss
21 caused by the juvenile's offense. Restitution may be made by payment of an amount
22 fixed by the court or by working for the parties sustaining loss in the manner ordered by
23 the court. An order of monetary restitution shall be a judgment against the juvenile that
24 may be collected by the court by garnishment or other execution as on judgments in
25 civil cases. Such judgment shall not be affected by the termination of the court's
26 jurisdiction over the juvenile offender.

27 (e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

28 (1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the
29 fine should be related to the seriousness of the offense and the juvenile's ability to pay.
30 Payment of a fine may be required in a lump sum or installments;

31 (2) in determining whether to impose a fine and the amount to be imposed, the court
32 shall consider that imposition of a fine is most appropriate in cases where the juvenile
33 has derived pecuniary gain from the offense and that imposition of a restitution order is
34 preferable to imposition of a fine; and

1 (3) any fine imposed by [the]¹ court shall be a judgment against the juvenile that may be
2 collected by the court by garnishment or other execution as on judgments in civil
3 cases. Such judgment shall not be affected by the termination of the court's jurisdiction
4 over the juvenile.

5 (f) Before the court sentences a juvenile offender pursuant to subsection (a), the court shall
6 administer a risk assessment tool, as described in K.S.A. 38-2360, and amendments thereto, or
7 review a risk assessment tool that was administered within the past six months to the juvenile
8 and use the results of that assessment to inform orders made pursuant to K.S.A. 38-
9 2369 and 38-2391, and amendments thereto.

10 (g) If the court commits the juvenile to detention pursuant to subsection (a)(~~104~~), the following
11 provisions shall apply:

12 (1) The court shall only order commitment to detention upon violation of sentencing
13 conditions where all other alternatives have been exhausted.

14 (2) In order to commit a juvenile to detention upon violation of sentencing conditions,
15 the court shall find that the juvenile poses a significant risk of harm to self, another, or
16 damage to property, is charged with a new felony offense, or violates conditional
17 release.

18 (3) The court shall not order commitment to detention upon adjudication as a juvenile
19 offender pursuant to K.S.A. 38-2356, and amendments thereto, for solely technical
20 violations of probation, indirect contempt, a violation of a valid court order, ~~to protect~~
21 ~~from self-harm~~ or due to any state or county failure to find adequate alternatives.

22 (4) ~~Cumulative detention use shall be limited to a maximum of 45 days over the course~~
23 ~~of a juvenile offender's case pursuant to K.S.A. 38-2391, and amendments thereto. 38-~~
24 ~~2369~~ The court shall establish a specific term of detention not to exceed 30 days. The
25 term of detention shall not exceed the overall case length limit or the cumulative
26 detention limit.

27 (1) Upon adjudication of a misdemeanor offense, the cumulative detention limit
28 shall be a maximum of 90 days over the course of the juvenile offender's case.

29 (2) Upon adjudication of a for a drug severity level 1 through 5 felony or a
30 nondrug severity level 5 through 10 felony offense, the cumulative detention limit shall
31 be a maximum of 180 days over the course of the juvenile offender's case.

1 (3) Upon adjudication of an offense which, if committed by an adult, would
2 constitute an off-grid felony or a nondrug severity level 1 through 4 person felony, there
3 shall be no limit on cumulative detention.

4 (5) The juvenile shall not remain in detention awaiting a hearing on an alleged violation
5 of a condition of probation or of a court-ordered placement or conditional release for
6 more than 45 days. The court shall review any detention commitment every ~~seven~~
7 fourteen days and may shorten the initial commitment or extend the commitment. ~~+~~
8 ~~no case, however, may the term of detention or any extension thereof exceed the~~
9 ~~cumulative detention limit of 45 days or the overall case length limit.~~

10 ~~(65)~~ A juvenile over 18 years of age and less than 23 years of age at sentencing shall be
11 committed to a county jail, in lieu of a juvenile detention center, under the same time
12 restrictions imposed by paragraph (1), but shall not be committed to or confined in a
13 juvenile detention facility.

14 (h) Any order issued by the judge pursuant to this section shall be in effect immediately upon
15 entry into the court's minutes.

16 (i) In addition to the requirements of K.S.A. 38-2373, and amendments thereto, if a person is
17 under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an
18 offense if committed by an adult would constitute the commission of a felony, the court shall
19 forward a signed copy of the journal entry to the secretary of corrections within 30 days of final
20 disposition.

21 (j) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an
22 offense which, if committed by an adult would constitute the commission of: (1) Aggravated
23 human trafficking, as defined in K.S.A. 21-5426(b), and amendments thereto, if the victim is less
24 than 14 years of age; (2) rape, as defined in K.S.A. 21-5503(a)(3), and amendments thereto; (3)
25 aggravated indecent liberties with a child, as defined in K.S.A. 21-5506(b)(3), and amendments
26 thereto; (4) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b)(1) or (b)(2), and
27 amendments thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A. 21-
28 6422, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation
29 of a child, as defined in K.S.A. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is
30 less than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation, as defined
31 in K.S.A. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in
32 paragraphs (1) through (6); the court shall issue an order prohibiting the juvenile from
33 attending the attendance center that the victim of the offense attends. If only one attendance
34 center exists, for which the victim and juvenile are eligible to attend, in the school district
35 where the victim and the juvenile reside, the court shall hear testimony and take evidence from

1 the victim, the juvenile, their families and a representative of the school district as to why the
2 juvenile should or should not be allowed to remain at the attendance center attended by the
3 victim. After such hearing, the court may issue an order prohibiting the juvenile from attending
4 the attendance center that the victim of the offense attends.

5 (k) The court may order a short-term alternative placement of a juvenile pursuant to subsection
6 (a)(3) in an emergency shelter, therapeutic foster home or community integration program if:

7 (1) Such juvenile has been adjudicated to be a juvenile offender for an offense which, if
8 committed by an adult would constitute the commission of:

9 (A) Aggravated human trafficking, as defined in K.S.A. 21-5426(b), and
10 amendments thereto, if the victim is less than 14 years of age;

11 (B) rape, as defined in K.S.A. 21-5503, and amendments thereto;

12 (C) commercial sexual exploitation of a child, as defined in K.S.A. 21-6422, and
13 amendments thereto, if the victim is less than 14 years of age;

14 (D) sexual exploitation of a child, as defined in K.S.A. 21-5510(a)(1) or (a)(4), and
15 amendments thereto, if the victim is less than 14 years of age;

16 (E) aggravated indecent liberties with a child, as defined in K.S.A. 21-5506, and
17 amendments thereto, if the victim is less than 14 years of age; or

18 (F) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-
19 5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in
20 paragraphs (1) through (4); and

21 (2)(A) the victim resides in the same home as the juvenile offender;

22 (B) a community supervision officer in consultation with the department for
23 children and families determines that an adequate safety plan, which shall
24 include the physical and psychological well-being of the victim, cannot be
25 developed to keep the juvenile in the same home; and

26 (C) there are no relevant child in need of care issues that would permit a case to
27 be filed under the Kansas code for care of children.

28 The presumptive term of commitment shall not extend beyond the overall case length limit but
29 may be modified pursuant to K.S.A. 38-2367 and 38-2397, and amendments thereto. If a child is
30 placed outside the child's home at the dispositional hearing pursuant to this subsection and no
31 reintegration plan is made a part of the record of the hearing, a written reintegration plan shall

1 be prepared pursuant to K.S.A. 38-2397, and amendments thereto, and submitted to the court
2 within 15 days of the initial order of the court.

3 (l) The sentencing hearing shall be open to the public as provided in K.S.A. 38-2353, and
4 amendments thereto.

5 (m) The overall case length limit shall be calculated by the court and entered into the written
6 record when one or more of the sentencing options under this section are imposed. The period
7 fixed by the court pursuant to subsection (a) shall not extend beyond the overall case length
8 limit.

9

K.S.A. 38-2391. Overall case length limits

1 (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 38-2356, and amendments
2 thereto, modification of sentence pursuant to K.S.A. 38-2367, and amendments thereto, or
3 violation of a condition of sentence pursuant to K.S.A. 38-2368, and amendments thereto, the
4 court may impose one or more of the sentencing alternatives under K.S.A. 38-2361, and
5 amendments thereto, for a period of time pursuant to this section and K.S.A. 38-2369, and
6 amendments thereto. The period of time ordered by the court shall not exceed the overall case
7 length limit.

8 (b) Except as provided in subsection (c), the overall case length limit shall be ~~calculated~~ based
9 on the adjudicated offense ~~and the results of a risk and needs assessment~~, as follows:

10 (1) Upon the first adjudication of a misdemeanor, the offender may remain under the
11 jurisdiction of the court for up to 12 months;

12 (2) Upon the second or subsequent adjudication of a misdemeanor, the offender may
13 remain under the jurisdiction of the court for up to 24 months;

14 (3) Upon adjudication for an offense, which, if committed by an adult, would constitute
15 a drug severity 1 through 5 or nondrug severity level 7 through 10 felony may remain
16 under the jurisdiction of the court for up to 30 months; and

17 (4) Upon adjudication for an offense, which, if committed by an adult, would constitute
18 a nondrug severity level 5 or 6 felony may remain under the jurisdiction of the court for
19 up to 36 months;

20
21 ~~(1) Offenders adjudicated for a misdemeanor may remain under the jurisdiction of the~~
22 ~~court for up to 12 months;~~

23 ~~(2) low-risk and moderate-risk offenders adjudicated for a felony may remain under~~
24 ~~court jurisdiction for up to 15 months; and~~

25 ~~(3) high-risk offenders adjudicated for a felony may remain under court jurisdiction for~~
26 ~~up to 18 months.~~

27 (5e) There shall be no overall case length limit for a juvenile adjudicated for a felony
28 which, if committed by an adult, would constitute an off-grid felony or a nondrug
29 severity level 1 through 4 person felony.

30 (cd) When a juvenile is adjudicated for multiple counts, the maximum overall case length shall
31 be calculated based on the most severe adjudicated count or any other adjudicated count at
32 the court's discretion. The court shall not run multiple adjudicated counts consecutively.

33 (de) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run
34 those cases concurrently.

1 (ef) Upon expiration of the overall case length limit as defined in subsection (b), the court's
2 jurisdiction terminates and shall not be extended.

3 (fg)(1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 38-2361,
4 and amendments thereto, the court shall establish a specific term of probation as specified in
5 this subsection based on the most serious adjudicated count in combination with the results of
6 a risk and needs assessment, as follows, except that the term of probation shall not exceed the
7 overall case length limit:

8 (A) Low-risk and moderate-risk offenders adjudicated for a misdemeanor and
9 low-risk offenders adjudicated for a felony may be placed on probation for a
10 term up to six months;

11 (B) high-risk offenders adjudicated for a misdemeanor and moderate-risk
12 offenders adjudicated for a felony may be placed on probation for a term up to
13 nine months; and

14 (C) high-risk offenders adjudicated for a felony may be placed on probation for a
15 term up to 12 months.

16 (2) The court may extend the term of probation if a juvenile needs time to complete an
17 evidence-based program as determined to be necessary based on the results of a
18 validated risk and needs assessment. The court may also extend the term of probation
19 for good cause shown. ~~for one month for low risk offenders, three months for~~
20 ~~moderate risk offenders and six months for high risk offenders.~~ Prior to extension of the
21 ~~initial~~ probationary term, the court shall find and enter into the written record the
22 criteria permitting extension of probation. The court may extend the term of probation
23 for up to six months at a time. Extensions of probation shall only be granted
24 incrementally and shall not exceed the overall case length limit. When the court extends
25 the term of probation for a juvenile offender, the court services officer or community
26 correctional services officer responsible for monitoring such juvenile offender shall
27 record the reason given for extending probation. Court services officers shall report
28 such records to the office of judicial administration, and community correctional
29 services officers shall report such records to the department of corrections. The office of
30 judicial administration and the department of corrections shall report such recorded
31 data to the Kansas juvenile justice oversight committee on a quarterly basis.

32 (3) The probation term limits do not apply to those offenders adjudicated for an offense
33 which, if committed by an adult, would constitute an off-grid crime, rape as defined
34 in K.S.A. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as
35 defined in K.S.A. 21-5504(b)(3), and amendments thereto, or murder in the second
36 degree as defined in K.S.A. 21-5403, and amendments thereto. Such offenders may be
37 placed on probation for a term consistent with the overall case length limit.

38 (4) The probation term limits and overall case length limits provided in this section shall
39 be tolled during any time that the offender has absconded from supervision while on

1 probation, and the time on such limits shall not start to run again until the offender is
2 located and brought back to the jurisdiction.

3 ~~(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 38-2361 and 38-~~
4 ~~2369, and amendments thereto, the court shall establish a specific term of detention. The term~~
5 ~~of detention shall not exceed the overall case length limit or the cumulative detention limit.~~
6 ~~Idrug severity level 1 through 5 felony or a Cumulative detention use shall be limited to a~~
7 ~~maximum of 45 days over the course of the juvenile offender's case, except that there shall be~~
8 ~~no limit on cumulative detention for juvenile offenders adjudicated for a felony which, if~~
9 ~~committed by an adult, would constitute an off grid felony or a nondrug severity level 1~~
10 ~~through 4 person felony. The provisions of this subsection shall apply upon disposition.~~

11 (g*i*) The provisions of this section shall apply upon disposition ~~or 15 days after adjudication,~~
12 ~~whichever is sooner,~~ unless the juvenile fails to appear for such juvenile's dispositional hearing.
13 If a juvenile fails to appear at such juvenile's dispositional hearing, the probation term limits
14 and overall case length limits provided in this section shall not apply until the juvenile is
15 brought before the court for disposition in such juvenile's case.

16 (h*i*) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

17

1 ***K.S.A. 38-2395. Standards for immediate intervention.***

2 (a) The department of corrections, in collaboration with the office of judicial administration,
3 shall develop standards and procedures to guide the administration of an immediate
4 intervention process and programs developed pursuant to K.S.A. 2019 Supp. 38-2346, and
5 amendments thereto, and alternative means of adjudication pursuant to K.S.A. 2019 Supp. 38-
6 2389, and amendments thereto. Such standards and procedures shall include, but not be
7 limited to:

8 (1) Contact requirements;

9 (2) parent engagement;

10 (3) graduated response and discharge requirements; and

11 (4) process and quality assurance.

12 (b) ~~This section shall take effect on and after January 1, 2017. The standards created pursuant~~
13 ~~to this section to guide the administration of immediate intervention process and programs~~
14 ~~shall be advisory and may be used by a county or district attorney in administering an~~
15 ~~immediate intervention program.~~

16

1 ~~**K.S.A 75-52,163. Funding for juvenile immediate intervention programs.**~~

2 ~~(a) The department of corrections shall create a plan and provide funding to incentivize the~~
3 ~~development of immediate intervention programs established pursuant to K.S.A. 2019~~
4 ~~Supp. 38-2346, and amendments thereto.~~

5 ~~(b) Funds allocated in accordance with such plan shall be used only for the purpose of making~~
6 ~~grants to immediate intervention programs that adhere to the standards and procedures for~~
7 ~~such programs developed pursuant to K.S.A. 2019 Supp. 38-2395, and amendments thereto,~~
8 ~~and shall be based on the number of persons served and such other requirements as may be~~
9 ~~established by the department of corrections. The plan may include requirements for grant~~
10 ~~applications, organizational characteristics, reporting and auditing criteria and such other~~
11 ~~standards for eligibility and accountability.~~

12 ~~(c) This section shall take effect on and after January 1, 2017.~~

13

K.S.A. 75-52,164. Evidence-based programs account of the state general fund

1 (a) There is hereby established in the state treasury the evidence-based programs account of
2 the state general fund, which shall be administered by the department of corrections. All
3 expenditures from the evidence-based programs account of the state general fund shall be for
4 the development and implementation of evidence-based community programs and practices
5 for juveniles as defined in K.S.A. 38-2302, and amendments thereto, and their families;
6 offenders, juveniles experiencing mental health crisis and their families; and crossover youth
7 and their families, by community supervision offices, including, but not limited to, juvenile
8 intake and assessment, court services, community corrections and juvenile crisis intervention
9 centers. All expenditures from the evidence-based programs account of the state general fund
10 shall be made in accordance with appropriation acts upon warrants of the director of accounts
11 and reports issued pursuant to vouchers approved by the secretary of corrections or the
12 secretary's designee.

13 (b) At least annually, throughout the year, the secretary of corrections shall determine and
14 certify to the director of accounts and reports the amount in each account of the state general
15 fund of a state agency that has been determined by the secretary to be actual or projected cost
16 savings as a result of cost avoidance resulting from decreased reliance on incarceration in the
17 juvenile correctional facility and placement in youth residential centers. The baseline shall be
18 calculated on the cost of incarceration and placement in fiscal year 2015.

19 (c) Upon receipt of a certification pursuant to subsection (b), the director of accounts and
20 reports shall transfer the amount certified pursuant to subsection (b) from each account of the
21 state general fund of a state agency that has been determined by the secretary of corrections
22 to be actual or projected cost savings to the evidence-based programs account of the state
23 general fund.

24 (d) Prioritization of evidence-based programs account of the state general fund moneys will be
25 given to regions that demonstrate a high rate of out-of-home placement of juvenile offenders
26 per capita that have few existing community-based alternatives.

27 (e) During fiscal years 2017 and 2018, the secretary of corrections shall transfer an amount not
28 to exceed \$8,000,000 from appropriated department of corrections moneys from the state
29 general fund or any available special revenue fund or funds that are budgeted for the purposes
30 of facilitating the development and implementation of new community placements in
31 conjunction with the reduction in out-of-home placements.

32 (f) The evidence-based programs account of the state general fund and any other moneys
33 transferred pursuant to this section shall be used for the purposes set forth in this section and
34 for no other governmental purposes. It is the intent of the legislature that the funds and the
35 moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this
36 section.

37 (g) When expenditures are made from the evidence-based programs account of the state
38 general fund for the purpose of providing services to crossover youth and their families, the

1 department of corrections shall collaborate with the department for children and families to
2 provide such services.

3

1 ***K.S.A. 75-7023. Juvenile intake and assessment system; confidentiality of records; information***
2 ***collected; dispositional alternatives; custody of child; conditions of release***

3 (a) The secretary for children and families may contract with the secretary of corrections to
4 provide for the juvenile intake and assessment system and programs for children in need of
5 care. Except as provided further, the secretary of corrections shall promulgate rules and
6 regulations for the juvenile intake and assessment system and programs concerning juvenile
7 offenders. If the secretary contracts with the office of judicial administration to administer the
8 juvenile intake and assessment system and programs concerning juvenile offenders, the
9 supreme court administrative orders shall be in force until such contract ends and the rules and
10 regulations concerning juvenile intake and assessment system and programs concerning
11 juvenile offenders have been adopted.

12 (b) Except as otherwise provided in this subsection, records, reports and information obtained
13 as a part of the juvenile intake and assessment process shall not be admitted into evidence in
14 any proceeding and shall not be used in a child in need of care proceeding or a juvenile
15 offender proceeding.

16 (1) Such records, reports and information may be used in a child in need of care
17 proceeding for diagnostic and referral purposes and by the court in considering
18 dispositional alternatives. If the records, reports or information are in regard to abuse or
19 neglect, which is required to be reported under [K.S.A. 38-2223](#), and amendments
20 thereto, such records, reports or information may then be used for any purpose in a
21 child in need of care proceeding pursuant to the revised Kansas code for care of
22 children.

23 (2) Such records, reports and information may be used in a juvenile offender proceeding
24 only if such records, reports and information are in regard to the possible trafficking of a
25 runaway. Such records, reports and information in regard to the possible trafficking of a
26 runaway shall be made available to the appropriate county or district attorney and the
27 court, and shall be used only for diagnostic and referral purposes.

28 (c) Upon a juvenile being taken into custody pursuant to [K.S.A. 38-2330](#), and amendments
29 thereto, a juvenile intake and assessment worker shall complete the intake and assessment
30 process, making release and referral determinations as required by supreme court
31 administrative order or district court rule, or except as provided above rules and regulations
32 established by the secretary of corrections.

33 (d) (1) Except as provided in subsection (g) and in addition to any other information required by
34 the supreme court administrative order, the secretary for children and families, the secretary of
35 corrections or by the district court of such district, the juvenile intake and assessment worker
36 shall collect the following information either in person or over two-way audio or audio-visual
37 communication:

1 (~~A1~~) The results of a standardized detention risk assessment tool pursuant
2 to K.S.A. 38-2302, and amendments thereto, if detention is being considered for
3 the juvenile, such as the problem oriented screening instrument for teens;

4 (~~B2~~) criminal history, including pending and unadjudicated juvenile charges and
5 indications of criminal gang involvement;

6 (~~C3~~) abuse history;

7 (~~D4~~) substance abuse history;

8 (~~E5~~) history of prior community services used or treatments provided;

9 (~~F6~~) educational history;

10 (~~G7~~) medical history;

11 (~~H8~~) family history; and

12 (~~I9~~) the results of other assessment instruments as approved by the secretary.

13 (2) In collecting the information in subsection (d)(1) the intake and assessment worker
14 shall communicate and collect information from the juvenile's caregiver. A juvenile's
15 caregiver may include a parents, relative caregiver, legal guardian or custodian, or foster
16 parent.

17 (e) After completion of the intake and assessment process for such child, the intake and
18 assessment worker shall make both a release and a referral determination:

19 (1) Release the child to the custody of the child's parent, other legal guardian or another
20 appropriate adult.

21 (2) Conditionally release the child to the child's parent, other legal guardian or another
22 appropriate adult if the intake and assessment worker believes that if the conditions are
23 met, it would be in the child's best interest to release the child to such child's parent,
24 other legal guardian or another appropriate adult; and the intake and assessment
25 worker has reason to believe that it might be harmful to the child to release the child to
26 such child's parents, other legal guardian or another appropriate adult without imposing
27 the conditions. The conditions may include, but not be limited to the alternatives listed
28 in K.S.A. 38-2331(b), and amendments thereto, and the following:

29 (A) Participation of the child in counseling;

30 (B) participation of members of the child's family in counseling;

1 (C) participation by the child, members of the child's family and other relevant
2 persons in mediation;

3 (D) provision of outpatient treatment for the child;

4 (E) referral of the child and the child's family to the secretary for children and
5 families for services and the agreement of the child and family to accept and
6 participate in the services offered;

7 (F) referral of the child and the child's family to available community resources
8 or services and the agreement of the child and family to accept and participate in
9 the services offered;

10 (G) requiring the child and members of the child's family to enter into a
11 behavioral contract which may provide for regular school attendance among
12 other requirements; or

13 (H) any special conditions necessary to protect the child from future abuse or
14 neglect.

15 (3) Deliver the child to a shelter facility or a licensed attendant care center along with
16 the law enforcement officer's written application for a maximum stay of up to 72 hours.
17 The shelter facility or licensed attendant care facility shall then have custody as if the
18 child had been directly delivered to the facility by the law enforcement officer pursuant
19 to K.S.A. 38-2232, and amendments thereto.

20 (4) The intake and assessment worker shall also refer the juvenile's case to one of the
21 following:

22 (A) An immediate intervention program pursuant to K.S.A. 38-2346(b), and
23 amendments thereto;

24 (B) the county or district attorney for appropriate proceedings to be filed, with or
25 without a recommendation that the juvenile be considered for alternative means
26 of adjudication programs pursuant to K.S.A. 38-2389, and amendments thereto,
27 or immediate intervention pursuant to K.S.A. 38-2346, and amendments thereto;
28 or

29 (C) refer the child and family to the secretary for children and families for
30 investigations in regard to the allegations.

31 (f) The secretary of corrections, in conjunction with the office of judicial administration, shall
32 develop, implement and validate on the Kansas juvenile population, a statewide detention risk
33 assessment tool.

1 (1) The assessment shall be conducted for each youth under consideration for detention
2 and may only be conducted by a juvenile intake and assessment worker who has
3 completed training to conduct the detention risk assessment tool.

4 (2) The secretary and the office of judicial administration shall establish cutoff scores
5 determining eligibility for placement in a juvenile detention facility or for referral to a
6 community-based alternative to detention and shall collect and report data regarding
7 the use of the detention risk assessment tool.

8 (3) The detention risk assessment tool includes an override function that may be
9 approved by the court for use under certain circumstances. If approved by the court, the
10 juvenile intake and assessment worker or the court may override the detention risk
11 assessment tool score in order to direct placement in a short-term shelter facility, a
12 community-based alternative to detention or, subject to K.S.A. 38-2331, and
13 amendments thereto, a juvenile detention facility. Such override must be documented,
14 include a written explanation and receive approval from the director of the intake and
15 assessment center or the court.

16 (4) If a juvenile meets one or more eligibility criteria for detention or referral to a
17 community-based alternative to detention, the person with authority to detain shall
18 maintain discretion to release the juvenile if other less restrictive measures would be
19 adequate.

20 (g) Parents, guardians and juveniles may access the juvenile intake and assessment programs
21 on a voluntary basis. The parent or guardian shall be responsible for the costs of any such
22 program utilized.

23 (h) Every juvenile intake and assessment worker shall receive training in evidence-based
24 practices, including, but not limited to:

25 (1) Risk and needs assessments;

26 (2) individualized ~~diversions~~ immediate intervention programs based on needs and
27 strengths;

28 (3) graduated responses;

29 (4) family engagement;

30 (5) trauma-informed care;

31 (6) substance abuse;

32 (7) mental health; and

33 (8) special education.

STATE OF KANSAS
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FRED C. PATTON
50TH DISTRICT

April 25, 2019

Nancy Strouse, Executive Director
Kansas Judicial Council
301 SW 10th Avenue
Topeka, Kansas 66612

Dear Nancy:

I am writing to request Judicial Council study of the impact of S8367 on youth who are at risk of being placed in CINC foster care as a result of offender behaviors and on youth in CINC foster care who are engaging in offender behaviors. As shorthand, these youth may be described as "crossover youth."

The 2016 Legislature passed S8367, an expansive juvenile justice reform bill, based on the recommendations of a bipartisan work group appointed by leadership from all three branches of the state's government. The law restricted the use of out-of-home placement including detention for juvenile offenders, and was projected to save millions of dollars to shift toward evidence-based services that would allow youth to be supervised safely while remaining at home. The law was phased in over three years, with the final implementation step set to occur in July of 2019. It appears that S8367 was designed to meet the needs of the broader juvenile offender population. However, it has come to the attention of legislators and other stakeholders that this reform may not be addressing the specific or unique challenges related to youth with offender behaviors at risk of being placed or placed in foster care.

Three key reports indicate a need to review the impact of S8367 on crossover youth.

First, the Juvenile Offender/Child in Need of Care Advisory Committee to the Judicial Council noted in its December 2017 report on Juvenile Crisis Intervention: "The Committee is concerned that S8367 eliminated resources like detention and youth residential centers but didn't replace those resources with other options. While the bill contained language indicating that the cost savings from detaining fewer juveniles should be redirected to communities, it is not clear that funding is being redirected to communities in an effective way. ... [A] relatively small percentage of funds has actually been made available to develop community-based resources."

Second, the Child Welfare System Task Force and three Working Groups met throughout the latter half of 2017 and 2018, submitting a report to the 2019 Legislature. The Child Welfare System Task Force report and Working Group 8 reports indicated concerns about juvenile offenders entering foster care. From the Working Group report: "The working group also heard

testimony on "criminogenic" CINC who are a rising and new population coming into care and may be the unintended result of juvenile justice reform. This bill added a uniform, state-wide Detention Risk Assessment Tool which sought to reduce the number of low-level offenders in juvenile detention-mainly crimes committed in the home. Prior to reform, these offenders were placed in detention, but post-reform the children are placed in out-of-home placement when parents will not accept the child back into the home. In 2018, year-to-date CINC filings have increased by 5 percent over 2017 as of August 20, 2018."

And third, the Mental Health Task Force 2019 report to the Legislature recommended, "a formal joint report to Legislature by corrections, education and health and human services agencies on programs, coordinated efforts and any collective recommendations for populations identified in 88367." The report indicated, "Juvenile justice system reform ... was intended to decrease the number of youth in the juvenile justice system by creating community-based alternatives to detention centers. The Task Force heard via testimony in 2018 that community-based alternatives have not been robust enough to serve all juvenile offenders released back into their communities, and the lack of community-based alternatives has led to an increase of children into the Kansas child welfare system. Lack of coordination between the behavioral health system and juvenile justice system also has exacerbated this issue."

These reports raise important questions about the impact of 88367 on crossover youth at risk of placement or placed in CINC foster care engaging in offender-type conduct. Key questions raised in these reports include:

1. whether evidence-based corrections interventions from 88367 are reaching crossover youth either at home or when placed in foster care;
2. whether there are appropriate placement options for youth with offender behaviors placed in CINC foster care;
3. whether the Detention Risk Assessment Tool and detention override option is adequately taking into account repeat offender behaviors;
4. whether needed corrections services are being provided at the appropriate time and in the appropriate setting for crossover youth, particularly those youth who are repeatedly engaging in offender behaviors, escalating in offense level, or exhibiting extreme physical or sexual aggression; and
5. whether public safety, including safety of caregivers and providers, is being appropriately considered at all stages of corrections interventions.

With that background, I request the Judicial Council:

- study the impact of 88367 on crossover youth;
- identify needed modifications to relevant provisions of law to ensure the goals of S8367, the Juvenile Justice Code, and the Child in Need of Care Code can be met for crossover youth, specifically but not limited to the five questions above;
- consider data collection or information-sharing needs that would support evaluation of whether the goals of 88367, the Juvenile Justice Code, and the Child in Need of Care Code are being achieved for crossover youth; and
- consider whether or how components of the Georgetown Crossover Youth Practice Model or similar practice model might inform needed statutory changes to support the goals of 88367, the Juvenile Justice Code, and the Child in Need of Care Code.

Please let me know if I can provide any further information or answer any questions regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Fred Patton', with a stylized flourish at the end.

Representative Fred Patton
Chairman, House Committee on Judiciary