

HOUSE BILL No. 2490

By J. Russell (Russ) Jennings Joint Committee on Corrections and Juvenile Justice Oversight

1-10

1 AN ACT concerning children and minors; relating to juvenile offenders;  
2 *providing for evaluation of a juvenile's academic record, dyslexia*  
3 *screening and reading level assessment*; limiting overall case length  
4 limit extensions to ~~90~~ *two extensions and 60* days per extension;  
5 amending *K.S.A. 38-2360 and K.S.A. 2023 Supp. 38-2391* and  
6 repealing the existing ~~section~~ *sections*.

7  
8 Be it enacted by the Legislature of the State of Kansas:

9 *Section 1. K.S.A. 38-2360 is hereby amended to read as follows: 38-*  
10 *2360. (a) At any time after the juvenile has been adjudicated to be a*  
11 *juvenile offender, the court shall order one or more of the tools*  
12 *described in this subsection to be submitted to assist the court unless the*  
13 *court finds that adequate and current information from a risk and needs*  
14 *assessment is available from a previous investigation, report or other*  
15 *sources:*

16 *(1) An evaluation and written report by a mental health or a*  
17 *qualified professional stating the psychological or emotional*  
18 *development or needs of the juvenile. The court also may order a report*  
19 *from any mental health or qualified professional who has previously*  
20 *evaluated the juvenile stating the psychological or emotional*  
21 *development needs of the juvenile. If the court orders an evaluation as*  
22 *provided in this section, a parent of the juvenile shall have the right to*  
23 *obtain an independent evaluation at the expense of the parent. If the*  
24 *evaluation indicates that the juvenile requires acute inpatient mental*  
25 *health or substance abuse treatment, the court shall have the authority*  
26 *to compel an assessment by the secretary for aging and disability*  
27 *services. The court may use the results to inform a treatment and*  
28 *payment plan according to the same eligibility process used for non-*  
29 *court-involved youth.*

30 *(2) A report of the medical condition and needs of the juvenile. The*  
31 *court also may order a report from any physician who has been*  
32 *attending the juvenile, stating the diagnosis, condition and treatment*  
33 *afforded the juvenile.*

34 *(3) An educational needs assessment of the juvenile from the chief*  
35 *administrative officer of the school which that the juvenile attends or*

1 *attended to provide to the court information that is readily available*  
2 *which the school officials feel would properly indicate the educational*  
3 *needs of the juvenile. The educational needs assessment may include a*  
4 *meeting involving any of the following: (A) The juvenile's parents; (B)*  
5 *the juvenile's teacher or teachers; (C) the school psychologist; (D) a*  
6 *school special services representative; (E) a representative of the*  
7 *commissioner; (F) the juvenile's court appointed special advocate; (G)*  
8 *the juvenile's foster parents or legal guardian; and (H) other persons*  
9 *that the chief administrative officer of the school, or the officer's*  
10 *designee, deems appropriate.*

11 *(4) An evaluation of the juvenile's academic record by a jobs for*  
12 *America's graduates-Kansas administrator to aid in determining the*  
13 *juvenile's educational needs.*

14 *(5) A dyslexia screening by a member from the center for reading at*  
15 *Pittsburg state university or the Phillips fundamental learning center and*  
16 *a reading level assessment to aid in determining the juvenile's educational*  
17 *needs.*

18 *(6) Any other presentence investigation and report from a court*  
19 *services officer—~~which~~ that includes: (A) The circumstances of the*  
20 *offense; (B) the attitude of the complainant, victim or the victim's*  
21 *family; (C) the record of juvenile offenses; (D) the social history of the*  
22 *juvenile; and (E) the present condition of the juvenile. Except where*  
23 *specifically prohibited by law, all local governmental public and private*  
24 *educational institutions and state agencies shall furnish to the officer*  
25 *conducting the predispositional investigation the records the officer*  
26 *requests. Predispositional investigations shall contain other information*  
27 *prescribed by the court.*

28 ~~(5)(7)~~ *(7) The court in its discretion may direct that the parents submit*  
29 *a domestic relations affidavit.*

30 *(b) A summary of the results from a risk and needs assessment shall*  
31 *be provided to the court post-adjudication, predisposition and used to*  
32 *inform supervision levels. A single, uniform risk and needs assessment*  
33 *shall be adopted by the office of judicial administration and the*  
34 *department of corrections to be used in all judicial districts. The office of*  
35 *judicial administration and the secretary of corrections shall establish*  
36 *cutoff scores determining risk levels of juveniles. Training on such risk*  
37 *and needs assessment shall be required for all administrators of the*  
38 *assessment. ~~Data shall be collected on the results of the assessment to~~*  
39 *~~inform a validation study on the Kansas juvenile justice population to be~~*  
40 *~~conducted by June 30, 2020.~~*

41 *(c) Expenses for post adjudication tools may be waived or assessed*  
42 *pursuant to K.S.A. 38-2314(c)(2), and amendments thereto.*

43 *(d) Except as otherwise prohibited by law or policy, the court shall*

1 *make any of the reports ordered pursuant to subsection (a) available to*  
2 *the attorneys and shall allow the attorneys a reasonable time to review*  
3 *the report before ordering the sentencing of the juvenile offender.*

4 *(e) At any time prior to sentencing, the judge, at the request of a*  
5 *party, shall hear additional evidence as to proposals for reasonable and*  
6 *appropriate sentencing of the case.*

7 *(f) If a juvenile is being held in detention, a dispositional hearing to*  
8 *sentence the juvenile offender shall take place within 45 days after such*  
9 *juvenile offender has been adjudicated.*

10 ~~Section 1.~~ **Sec. 2.** K.S.A. 2023 Supp. 38-2391 is hereby amended to  
11 read as follows: 38-2391. (a) Upon adjudication as a juvenile offender  
12 pursuant to K.S.A. 38-2356, and amendments thereto, modification of  
13 sentence pursuant to K.S.A. 38-2367, and amendments thereto, or  
14 violation of a condition of sentence pursuant to K.S.A. 38-2368, and  
15 amendments thereto, the court may impose one or more of the sentencing  
16 alternatives under K.S.A. 38-2361, and amendments thereto, for a period  
17 of time pursuant to this section and K.S.A. 38-2369, and amendments  
18 thereto. The period of time ordered by the court shall not exceed the  
19 overall case length limit.

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

23 (1) Offenders adjudicated for a misdemeanor may remain under the  
24 jurisdiction of the court for up to 12 months;

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

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

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

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

36 (e) When the juvenile is adjudicated for multiple cases  
37 simultaneously, the court shall run such cases concurrently.

38 (f) Upon expiration of the overall case length limit as defined in  
39 subsection (b), the court's jurisdiction terminates and shall not be  
40 extended, except as provided in subsection (g)(2).

41 (g) (1) For the purposes of placing juvenile offenders on probation  
42 pursuant to K.S.A. 38-2361, and amendments thereto, the court shall  
43 establish a specific term of probation as specified in this subsection based

1 on the most serious adjudicated count in combination with the results of a  
2 risk and needs assessment, as follows, except that the term of probation  
3 shall not exceed the overall case length limit:

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

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

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

12 (2) The court may extend the term of probation if a juvenile needs  
13 time to complete an evidence-based program as determined to be  
14 necessary based on the results of a validated risk and needs assessment  
15 and, if necessary, may extend the overall case length limit to allow for  
16 completion of such program when failure to complete such program is due  
17 to a repeated, intentional effort to delay by the juvenile as reported by the  
18 evidence-based services provider. The court may also extend the term of  
19 probation for good cause shown for one month for low-risk offenders,  
20 three months for moderate-risk offenders and six months for high-risk  
21 offenders. Prior to extension of the initial probationary term, the court  
22 shall find and enter into the written record the criteria permitting extension  
23 of probation. Extensions of probation ~~and the overall case length limit~~  
24 shall only be granted incrementally. ~~Extensions of the overall case length~~  
25 ~~limit shall only be granted incrementally and shall not exceed 90 days per~~  
26 ~~extension~~ **The court may only extend the overall case length limit two**  
27 **times, and each extension shall not exceed 60 days.** When the court  
28 extends the term of probation for a juvenile offender, the court services  
29 officer or community correctional services officer responsible for  
30 monitoring such juvenile offender shall record the reason given for  
31 extending probation. Court services officers shall report such records to  
32 the office of judicial administration, and community correctional services  
33 officers shall report such records to the department of corrections. The  
34 office of judicial administration and the department of corrections shall  
35 report such recorded data to the Kansas juvenile justice oversight  
36 committee on a quarterly basis.

37 (3) The probation term limits do not apply to those offenders  
38 adjudicated for an offense which, if committed by an adult, would  
39 constitute an off-grid crime, rape as defined in K.S.A. 21-5503(a)(1), and  
40 amendments thereto, aggravated criminal sodomy as defined in K.S.A. 21-  
41 5504(b)(3), and amendments thereto, or murder in the second degree as  
42 defined in K.S.A. 21-5403, and amendments thereto. Such offenders may  
43 be placed on probation for a term consistent with the overall case length

1 limit.

2 (4) The probation term limits and overall case length limits provided  
3 in this section shall be tolled during any time that the offender has  
4 absconded from supervision while on probation, and the time on such  
5 limits shall not start to run again until the offender is located and brought  
6 back to the jurisdiction.

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

16 (i) The provisions of this section shall apply upon disposition or 15  
17 days after adjudication, whichever is sooner, unless the juvenile fails to  
18 appear for such juvenile's dispositional hearing. If a juvenile fails to appear  
19 at such juvenile's dispositional hearing, the probation term limits and  
20 overall case length limits provided in this section shall not apply until the  
21 juvenile is brought before the court for disposition in such juvenile's case.

22 (j) This section shall be a part of and supplemental to the revised  
23 Kansas juvenile justice code.

24 ~~Sec. 2. 3. *K.S.A. 38-2360 and* K.S.A. 2023 Supp. 38-2391~~ is are  
25 hereby repealed.

26 ~~Sec. 3. 4.~~ This act shall take effect and be in force from and after its  
27 publication in the statute book.