

Senate Substitute for HOUSE BILL No. 2588

By Committee on Judiciary

3-21

1 AN ACT concerning children and minors; relating to the revised Kansas
2 juvenile justice code; revised Kansas code for care of children;
3 placement in juvenile detention facilities; permanent custodians;
4 juvenile offenders; alternative adjudication; youth residential centers
5 and services; risk assessment; sentencing; good time credits; amending
6 K.S.A. 2013 Supp. 21-6607, 38-2268, 38-2360, 38-2369, 38-2370 and
7 38-2372 and repealing the existing sections.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) *Findings and purpose.* The following findings and
11 declaration of purpose apply to this section.

12 (1) The legislature finds that personal and familial circumstances may
13 contribute to the commission of offenses by juveniles who represent a
14 minimal threat to public safety and that in such cases it would further the
15 interests of society and the juvenile to take an approach to adjudication
16 that combines less formal procedures, appropriate disciplinary sanctions
17 for misconduct and the provision of necessary services.

18 (2) It is the purpose of this section to provide prosecutors with an
19 alternative means of adjudication for juvenile offenders who present a
20 minimal threat to public safety and both the juvenile and society would
21 benefit from such approach.

22 (b) *Designation.* A county or district attorney with jurisdiction over
23 the offense who believes that proceedings under this section are
24 appropriate may, in such county or district attorney's discretion, designate
25 an alleged juvenile offender for adjudication under this section and not
26 seek application of a placement within the placement matrix pursuant to
27 K.S.A. 2013 Supp. 38-2369, and amendments thereto, if the alleged
28 juvenile offender's act, if committed by an adult, would constitute a
29 misdemeanor.

30 (1) The county or district attorney shall make such designation in the
31 original complaint or by written notice filed with the court and served on
32 the juvenile, the juvenile's counsel and the juvenile's parent or legal
33 guardian within 14 days after the filing of the complaint.

34 (2) The filing of a written application for diversion under K.S.A.
35 2013 Supp. 38-2346, and amendments thereto, shall toll the running of the
36 14-day period and shall resume upon the issuance of a written denial of

1 diversion.

2 (c) *Exceptions.* Except as provided in this subsection, the provisions
3 of the revised Kansas juvenile justice code, K.S.A. 2013 Supp. 38-2301 et
4 seq., and amendments thereto, shall apply in any adjudication under this
5 section.

6 (1) If during the proceedings the court determines that there is
7 probable cause to believe that the juvenile is a child in need of care as
8 defined by 2013 Supp. K.S.A. 38-2202, and amendments thereto, the court
9 shall refer the matter to the county or district attorney, who shall file a
10 petition as provided in K.S.A. 2013 Supp. 38-2234, and amendments
11 thereto, and refer the family to the Kansas department for children and
12 families for services.

13 (A) If the court presiding over the proceeding under this section
14 finds, in accordance with K.S.A. 2013 Supp. 38-2334 and 38-2335, and
15 amendments thereto, that the juvenile should be removed from the home,
16 the court may place the juvenile in the temporary custody of the secretary
17 for children and families or any person, other than the child's parent,
18 willing to accept temporary custody.

19 (B) If the child in need of care case is presided over by a different
20 judge, the county or district attorney shall notify the court presiding over
21 the proceedings under this section of pertinent orders entered in the child
22 in need of care case.

23 (2) Notwithstanding any other provision of law, no juvenile shall be
24 committed to a juvenile correctional facility pursuant to subsection (a)(12)
25 of K.S.A. 2013 Supp. 38-2361, and amendments thereto, for an offense
26 adjudicated under this section or for the violation of a term or condition of
27 the disposition for such an offense.

28 (3) Notwithstanding any other provision of law, no adjudication under
29 this section or violation of the terms and conditions of the disposition,
30 including a placement failure, shall be used against the juvenile in a
31 proceeding on a subsequent offense committed as a juvenile or as an adult.
32 For purposes of this section, "used against the juvenile" includes, but is not
33 limited to, establishing an element of a subsequent offense, raising the
34 severity level of a subsequent offense or enhancing the sentence for a
35 subsequent offense.

36 (4) Upon completion of the case and the termination of the court's
37 jurisdiction, the court shall order the adjudication expunged, and the
38 provisions of subsections (a), (b), (c), (d), (e), (i), (k) and (l) of K.S.A.
39 2013 Supp. 38-2312, and amendments thereto, shall not apply to such
40 expungement.

41 (5) Notwithstanding any other provision of law, a juvenile shall not
42 be required to register as an offender under the Kansas offender
43 registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a

1 result of adjudication under this section.

2 (6) The provisions of K.S.A. 2013 Supp. 38-2309 and 38-2310, and
3 amendments thereto, shall not apply to proceedings under this section.

4 (7) The provisions of K.S.A. 2013 Supp. 38-2347, and amendments
5 thereto, shall not apply to proceedings under this section.

6 (8) The provisions of subsection (g)(1) of K.S.A. 2013 Supp. 38-
7 2304, and amendments thereto, shall not apply to proceedings under this
8 section.

9 (9) The trial of offenses under this section shall be to the court and
10 the right to a trial by jury under K.S.A. 2013 Supp. 38-2357, and
11 amendments thereto, shall not apply.

12 (d) *Withdrawal*. At any time prior to the beginning of a hearing at
13 which the court may enter an order adjudicating the child as a juvenile
14 offender, the county or district attorney may withdraw the designation for
15 proceedings under this section by providing notice to the court, the
16 juvenile, the juvenile's attorney and guardian ad litem, if any, and the
17 juvenile's parent or legal guardian. Upon withdrawal of the designation,
18 this section shall no longer apply and the case shall proceed and the court
19 shall grant a continuance upon request.

20 (e) *Appeal*. An adjudication under this section is an appealable order
21 pursuant to K.S.A. 2013 Supp. 38-2380, and amendments thereto.

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

24 New Sec. 2. (a) Notwithstanding any other provision of law, no child
25 alleged or found to be a child in need of care may be placed in a juvenile
26 detention facility unless:

27 (1) Such placement is necessary to protect the safety of the child and
28 is authorized by subsection (b) of K.S.A. 2013 Supp. 38-2232, and
29 amendments thereto, or K.S.A. 2013 Supp. 38-2242, 38-2243 or 38-2260,
30 and amendments thereto; or

31 (2) the child is also alleged to be a juvenile offender and such
32 placement is authorized by K.S.A. 2013 Supp. 38-2330 or 38-2343, and
33 amendments thereto.

34 (b) This section shall be part of and supplemental to the revised
35 Kansas code for care of children.

36 New Sec. 3. (a) On or before January 15, 2015, the secretary of
37 corrections shall perform the actions required by this section and report on
38 such actions to the house committee on corrections and juvenile justice,
39 the senate committee on federal and state affairs and the joint committee
40 on corrections and juvenile justice oversight.

41 (b) The secretary shall conduct a cost study analysis of all youth
42 residential centers for juvenile offenders under contract to provide services
43 to the department of corrections. The cost study analysis shall:

1 (1) Include detailed analysis of allowable expenses necessary to meet
2 the minimum requirements for: (A) Licensure of a youth residential center
3 by the department of health and environment; (B) service under contracts
4 with the department of corrections; and (C) compliance with the prison
5 rape elimination act, 42 U.S.C. § 15601 et seq.; and

6 (2) identify any cost associated with program or other expenses
7 which add value to the services provided to juvenile offenders by youth
8 residential centers in addition to such minimum requirements.

9 (c) The secretary shall evaluate program needs within youth
10 residential centers for juvenile offenders and compare such needs with
11 program availability. The secretary shall propose modifications to the
12 legislature which align program availability with program needs.

13 (d) The secretary shall develop a fee schedule for youth residential
14 services for juvenile offenders to include daily payment rates necessary for
15 base service and rates for program component additions to such base
16 service.

17 (e) The secretary shall develop a plan for performance-based
18 incentive payment opportunities and a plan for integration of such
19 payment opportunities into the fee schedule developed pursuant to
20 subsection (d). The secretary shall also develop a plan to measure
21 performance and evaluate the effectiveness of juvenile offender service
22 providers.

23 Sec. 4. K.S.A. 2013 Supp. 21-6607 is hereby amended to read as
24 follows: 21-6607. (a) Except as required by subsection (c), nothing in this
25 section shall be construed to limit the authority of the court to impose or
26 modify any general or specific conditions of probation, suspension of
27 sentence or assignment to a community correctional services program. The
28 court services officer or community correctional services officer may
29 recommend, and the court may order, the imposition of any conditions of
30 probation, suspension of sentence or assignment to a community
31 correctional services program. For crimes committed on or after July 1,
32 1993, in presumptive nonprison cases, the court services officer or
33 community correctional services officer may recommend, and the court
34 may order, the imposition of any conditions of probation or assignment to
35 a community correctional services program. The court may at any time
36 order the modification of such conditions, after notice to the court services
37 officer or community correctional services officer and an opportunity for
38 such officer to be heard thereon. The court shall cause a copy of any such
39 order to be delivered to the court services officer and the probationer or to
40 the community correctional services officer and the community corrections
41 participant, as the case may be. The provisions of K.S.A. 75-5291, and
42 amendments thereto, shall be applicable to any assignment to a community
43 correctional services program pursuant to this section.

1 (b) The court may impose any conditions of probation, suspension of
2 sentence or assignment to a community correctional services program that
3 the court deems proper, including, but not limited to, requiring that the
4 defendant:

5 (1) Avoid such injurious or vicious habits, as directed by the court,
6 court services officer or community correctional services officer;

7 (2) avoid such persons or places of disreputable or harmful character,
8 as directed by the court, court services officer or community correctional
9 services officer;

10 (3) report to the court services officer or community correctional
11 services officer as directed;

12 (4) permit the court services officer or community correctional
13 services officer to visit the defendant at home or elsewhere;

14 (5) work faithfully at suitable employment insofar as possible;

15 (6) remain within the state unless the court grants permission to
16 leave;

17 (7) pay a fine or costs, applicable to the offense, in one or several
18 sums and in the manner as directed by the court;

19 (8) support the defendant's dependents;

20 (9) reside in a residential facility located in the community and
21 participate in educational, counseling, work and other correctional or
22 rehabilitative programs;

23 (10) perform community or public service work for local
24 governmental agencies, private corporations organized not for profit, or
25 charitable or social service organizations performing services for the
26 community;

27 (11) perform services under a system of day fines whereby the
28 defendant is required to satisfy fines, costs or reparation or restitution
29 obligations by performing services for a period of days, determined by the
30 court on the basis of ability to pay, standard of living, support obligations
31 and other factors;

32 (12) participate in a house arrest program pursuant to K.S.A. 2013
33 Supp. 21-6609, and amendments thereto;

34 (13) order the defendant to pay the administrative fee authorized by
35 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

36 (14) in felony cases, except for violations of K.S.A. 8-1567, and
37 amendments thereto, be confined in a county jail not to exceed 60 days,
38 which need not be served consecutively.

39 (c) In addition to any other conditions of probation, suspension of
40 sentence or assignment to a community correctional services program, the
41 court shall order the defendant to comply with each of the following
42 conditions:

43 (1) The defendant shall obey all laws of the United States, the state of

1 Kansas and any other jurisdiction to the laws of which the defendant may
2 be subject;

3 (2) make reparation or restitution to the aggrieved party for the
4 damage or loss caused by the defendant's crime, in an amount and manner
5 determined by the court and to the person specified by the court, unless the
6 court finds compelling circumstances which would render a plan of
7 restitution unworkable. If the court finds a plan of restitution unworkable,
8 the court shall state on the record in detail the reasons therefore;

9 (3) (A) pay a correctional supervision fee of \$60 if the person was
10 convicted of a misdemeanor or a fee of \$120 if the person was convicted
11 of a felony. In any case the amount of the correctional supervision fee
12 specified by this paragraph may be reduced or waived by the judge if the
13 person is unable to pay that amount;

14 (B) the correctional supervision fee imposed by this paragraph shall
15 be charged and collected by the district court. The clerk of the district
16 court shall remit all revenues received under this paragraph from
17 correctional supervision fees to the state treasurer in accordance with the
18 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
19 each such remittance, the state treasurer shall deposit the entire amount in
20 the state treasury to the credit of the state general fund, a sum equal to
21 41.67% of such remittance, and to the correctional supervision fund, a sum
22 equal to 58.33% of such remittance;

23 (C) this paragraph shall apply to persons placed on felony or
24 misdemeanor probation or released on misdemeanor parole to reside in
25 Kansas and supervised by Kansas court services officers under the
26 interstate compact for offender supervision; and

27 (D) this paragraph shall not apply to persons placed on probation or
28 released on parole to reside in Kansas under the uniform act for out-of-
29 state parolee supervision;

30 (4) reimburse the state general fund for all or a part of the
31 expenditures by the state board of indigents' defense services to provide
32 counsel and other defense services to the defendant. In determining the
33 amount and method of payment of such sum, the court shall take account
34 of the financial resources of the defendant and the nature of the burden that
35 payment of such sum will impose. A defendant who has been required to
36 pay such sum and who is not willfully in default in the payment thereof
37 may at any time petition the court which sentenced the defendant to waive
38 payment of such sum or of any unpaid portion thereof. If it appears to the
39 satisfaction of the court that payment of the amount due will impose
40 manifest hardship on the defendant or the defendant's immediate family,
41 the court may waive payment of all or part of the amount due or modify
42 the method of payment. The amount of attorney fees to be included in the
43 court order for reimbursement shall be the amount claimed by appointed

1 counsel on the payment voucher for indigents' defense services or the
2 amount prescribed by the board of indigents' defense services
3 reimbursement tables as provided in K.S.A. 22-4522, and amendments
4 thereto, whichever is less;

5 (5) be subject to searches of the defendant's person, effects, vehicle,
6 residence and property by a court services officer, a community
7 correctional services officer and any other law enforcement officer based
8 on reasonable suspicion of the defendant violating conditions of probation
9 or criminal activity; and

10 (6) be subject to random, but reasonable, tests for drug and alcohol
11 consumption as ordered by a court services officer or community
12 correctional services officer.

13 (d) Any law enforcement officer conducting a search pursuant to
14 subsection (c)(5) shall submit a written report to the appropriate court
15 services officer or community correctional services officer no later than
16 the close of the next business day after such search. The written report
17 shall include the facts leading to such search, the scope of such search and
18 any findings resulting from such search.

19 (e) There is hereby established in the state treasury the correctional
20 supervision fund. All moneys credited to the correctional supervision fund
21 shall be used for: (1) The implementation of and training for use of a
22 statewide, mandatory, standardized risk assessment tool or instrument as
23 specified by the Kansas sentencing commission, pursuant to K.S.A. 75-
24 5291, and amendments thereto; ; (2) *the implementation of and training*
25 *for use of a statewide, mandatory, standardized risk assessment tool or*
26 *instrument for juveniles adjudicated to be juvenile offenders; and for* (3)
27 evidence-based *adult and juvenile* offender supervision programs by
28 judicial branch personnel. If all expenditures for the program have been
29 paid and moneys remain in the correctional supervision fund for a fiscal
30 year, remaining moneys may be expended from the correctional
31 supervision fund to support *adult and juvenile* offender supervision by
32 court services officers. All expenditures from the correctional supervision
33 fund shall be made in accordance with appropriation acts upon warrants of
34 the director of accounts and reports issued pursuant to vouchers approved
35 by the chief justice of the Kansas supreme court or by a person or persons
36 designated by the chief justice.

37 Sec. 5. K.S.A. 2013 Supp. 38-2268 is hereby amended to read as
38 follows: 38-2268. (a) Prior to a hearing to consider the termination of
39 parental rights, if the child's permanency plan is either adoption or
40 appointment of a custodian, with the consent of the guardian ad litem and
41 the secretary, either or both parents may relinquish parental rights to the
42 child, consent to an adoption or consent to appointment of a permanent
43 custodian.

1 (b) *Relinquishment of child to secretary.* (1) Any parent or parents
2 may relinquish a child to the secretary, and if the secretary accepts the
3 relinquishment in writing, the secretary shall stand in loco parentis to the
4 child and shall have and possess over the child all rights of a parent,
5 including the power to place the child for adoption and give consent
6 thereto.

7 (2) All relinquishments to the secretary shall be in writing, in
8 substantial conformity with the form for relinquishment contained in the
9 appendix of forms following K.S.A. 59-2143, and amendments thereto,
10 and shall be executed by either parent of the child.

11 (3) The relinquishment shall be in writing and shall be acknowledged
12 before a judge of a court of record or before an officer authorized by law
13 to take acknowledgments. If the relinquishment is acknowledged before a
14 judge of a court of record, it shall be the duty of the court to advise the
15 relinquishing parent of the consequences of the relinquishment.

16 (4) Except as otherwise provided, in all cases where a parent has
17 relinquished a child to the agency pursuant to K.S.A. 59-2111 through 59-
18 2143, and amendments thereto, all the rights of the parent shall be
19 terminated, including the right to receive notice in a subsequent adoption
20 proceeding involving the child. Upon such relinquishment, all the rights of
21 the parents to such child, including such parent's right to inherit from or
22 through such child, shall cease.

23 (5) If a parent has relinquished a child to the secretary based on a
24 belief that the child's other parent would relinquish the child to the
25 secretary or would be found unfit, and this does not occur, the rights of the
26 parent who has relinquished a child to the secretary shall not be
27 terminated.

28 (6) A parent's relinquishment of a child shall not terminate the right
29 of the child to inherit from or through the parent.

30 (c) *Permanent custody.* (1) A parent may consent to appointment of
31 ~~the secretary or~~ an individual as permanent custodian and if the ~~secretary~~
32 ~~or~~ individual accepts the consent, ~~the secretary or~~ such individual shall
33 stand in loco parentis to the child and shall have and possess over the child
34 all the rights of a legal guardian. ~~When the consent is to the secretary, the~~
35 ~~secretary shall have the right to place the child in the permanent custody of~~
36 ~~an individual who is appointed permanent custodian.~~

37 (2) All consents to appointment of a permanent custodian shall be in
38 writing and shall be executed by either parent of the child.

39 (3) The consent shall be in writing and shall be acknowledged before
40 a judge of a court of record or before an officer authorized by law to take
41 acknowledgments. If the consent is acknowledged before a judge of a
42 court of record, it shall be the duty of the court to advise the consenting
43 parent of the consequences of the consent.

1 (4) If a parent has consented to appointment of a permanent custodian
2 based upon a belief that the child's other parent would so consent or would
3 be found unfit, and this does not occur, the consent shall be null and void.

4 (d) *Adoption*. If the parental rights of one parent have been terminated
5 or that parent has relinquished parental rights to the secretary, the other
6 parent may consent to the adoption of the child by persons approved by the
7 secretary or approved by the court. The consent shall follow the form
8 contained in the appendix of forms following K.S.A. 59-2143, and
9 amendments thereto.

10 Sec. 6. K.S.A. 2013 Supp. 38-2360 is hereby amended to read as
11 follows: 38-2360. (a) At any time after the juvenile has been adjudicated to
12 be a juvenile offender, the court shall order one or more of the tools
13 described in this subsection to be submitted to assist the court unless the
14 court finds that adequate and current information is available from a
15 previous investigation, report or other sources:

16 (1) An evaluation and written report by a mental health or a qualified
17 professional stating the psychological or emotional development or needs
18 of the juvenile. The court also may order a report from any mental health
19 or qualified professional who has previously evaluated the juvenile stating
20 the psychological or emotional development needs of the juvenile. If the
21 court orders an evaluation as provided in this section, a parent of the
22 juvenile shall have the right to obtain an independent evaluation at the
23 expense of the parent.

24 (2) A report of the medical condition and needs of the juvenile. The
25 court also may order a report from any physician who has been attending
26 the juvenile, stating the diagnosis, condition and treatment afforded the
27 juvenile.

28 (3) An educational needs assessment of the juvenile from the chief
29 administrative officer of the school which the juvenile attends or attended
30 to provide to the court information that is readily available which the
31 school officials feel would properly indicate the educational needs of the
32 juvenile. The educational needs assessment may include a meeting
33 involving any of the following: (A) The juvenile's parents; (B) the
34 juvenile's teacher or teachers; (C) the school psychologist; (D) a school
35 special services representative; (E) a representative of the commissioner;
36 (F) the juvenile's court appointed special advocate; (G) the juvenile's foster
37 parents or legal guardian; and (H) other persons that the chief
38 administrative officer of the school, or the officer's designee, deems
39 appropriate.

40 (4) Any other presentence investigation and report from a court
41 services officer which includes: (A) The circumstances of the offense; (B)
42 the attitude of the complainant, victim or the victim's family; (C) the
43 record of juvenile offenses; (D) the social history of the juvenile; and (E)

1 the present condition of the juvenile; and (F) a summary of the results
2 from a standardized risk assessment tool or instrument. Except where
3 specifically prohibited by law, all local governmental public and private
4 educational institutions and state agencies shall furnish to the officer
5 conducting the predispositional investigation the records the officer
6 requests. Predispositional investigations shall contain other information
7 prescribed by the court.

8 (5) The court in its discretion may direct that the parents submit a
9 domestic relations affidavit.

10 (b) Expenses for post adjudication tools may be waived or assessed
11 pursuant to subsection (c)(2) of K.S.A. 2013 Supp. 38-2314, and
12 amendments thereto.

13 (c) *Except as otherwise prohibited by law or policy*, the court shall
14 make any of the reports ordered pursuant to subsection (a) available to the
15 attorneys and shall allow the attorneys a reasonable time to review the
16 report before ordering the sentencing of the juvenile offender.

17 (d) At any time prior to sentencing, the judge, at the request of a
18 party, shall hear additional evidence as to proposals for reasonable and
19 appropriate sentencing of the case.

20 Sec. 7. K.S.A. 2013 Supp. 38-2369 is hereby amended to read as
21 follows: 38-2369. (a) For the purpose of committing juvenile offenders to
22 a juvenile correctional facility, the following placements shall be applied
23 by the judge in felony or misdemeanor cases. If used, the court shall
24 establish a specific term of commitment as specified in this subsection,
25 unless the judge conducts a departure hearing and finds substantial and
26 compelling reasons to impose a departure sentence as provided in K.S.A.
27 2013 Supp. 38-2371, and amendments thereto.

28 (1) *Violent Offenders*. (A) The violent offender I is defined as an
29 offender adjudicated as a juvenile offender for an offense which, if
30 committed by an adult, would constitute an off-grid felony. Offenders in
31 this category may be committed to a juvenile correctional facility for a
32 minimum term of 60 months and up to a maximum term of the offender
33 reaching the age of 22 years, six months. The aftercare term for this
34 offender is set at a minimum term of six months and up to a maximum
35 term of the offender reaching the age of 23 years.

36 (B) The violent offender II is defined as an offender adjudicated as a
37 juvenile offender for an offense which, if committed by an adult, would
38 constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this
39 category may be committed to a juvenile correctional facility for a
40 minimum term of 24 months and up to a maximum term of the offender
41 reaching the age 22 years, six months. The aftercare term for this offender
42 is set at a minimum term of six months and up to a maximum term of the
43 offender reaching the age of 23 years.

1 (2) *Serious Offenders.* (A) The serious offender I is defined as an
2 offender adjudicated as a juvenile offender for an offense:

3 (i) Which, if committed by an adult, would constitute a nondrug
4 severity level 4, 5 or 6 person felony;

5 (ii) committed prior to July 1, 2012, which, if committed by an adult
6 prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony;
7 or

8 (iii) committed on or after July 1, 2012, which, if committed by an
9 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or
10 3 felony.

11 Offenders in this category may be committed to a juvenile correctional
12 facility for a minimum term of 18 months and up to a maximum term of 36
13 months. The aftercare term for this offender is set at a minimum term of
14 six months and up to a maximum term of 24 months.

15 (B) *The serious offender II is defined as an offender adjudicated as a*
16 *juvenile offender for an offense which, if committed by an adult, would*
17 *constitute a nondrug severity level 7, person felony with one prior felony*
18 *adjudication. Offenders in this category may be committed to a juvenile*
19 *correctional facility for a minimum term of nine months and up to a*
20 *maximum term of 18 months. The aftercare term for this offender is set at*
21 *a minimum term of six months and up to a maximum term of 24 months.*

22 (C) The serious offender H III is defined as an offender adjudicated as
23 a juvenile offender for an offense which, if committed by an adult, would
24 constitute a nondrug severity level 7-8, 9 or 10 person felony with one
25 prior felony adjudication. *Offenders in this category may only be*
26 *committed to a juvenile correctional facility if the judge conducts a*
27 *departure hearing and finds substantial and compelling reasons to impose*
28 *a departure sentence as provided in K.S.A. 2013 Supp. 38-2371, and*
29 *amendments thereto. If a departure sentence is imposed, offenders in this*
30 *category may be committed to a juvenile correctional facility for a*
31 *minimum term of nine months and up to a maximum term of 18 months.*
32 The aftercare term for this offender is set at a minimum term of six months
33 and up to a maximum term of 24 months.

34 (3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is
35 defined as an offender adjudicated as a juvenile offender for an offense:

36 (i) Which, if committed by an adult, would constitute one present
37 nonperson felony adjudication and two prior felony adjudications;

38 (ii) committed prior to July 1, 2012, which, if committed by an adult
39 prior to July 1, 2012, would constitute one present drug severity level 3
40 felony adjudication and two prior felony adjudications; or

41 (iii) committed on or after July 1, 2012, which, if committed by an
42 adult on or after July 1, 2012, would constitute one present drug severity
43 level 4 felony adjudication and two prior felony adjudications.

1 *Offenders in this category may only be committed to a juvenile*
2 *correctional facility if the judge conducts a departure hearing and finds*
3 *substantial and compelling reasons to impose a departure sentence as*
4 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*
5 *departure sentence is imposed, offenders in this category may be*
6 *committed to a juvenile correctional facility for a minimum term of six*
7 *months and up to a maximum term of 18 months. The aftercare term for*
8 *this offender is set at a minimum term of six months and up to a maximum*
9 *term of 12 months.*

10 (B) The chronic offender II, escalating felon is defined as an offender
11 adjudicated as a juvenile offender for an offense:

12 (i) Which, if committed by an adult, would constitute one present
13 felony adjudication and either two prior misdemeanor adjudications or one
14 prior person or nonperson felony adjudication;

15 (ii) which, if committed by an adult, would constitute one present
16 felony adjudication and two prior drug severity level 4 or 5 adjudications;

17 (iii) committed prior to July 1, 2012, which, if committed by an adult
18 prior to July 1, 2012, would constitute one present drug severity level 3
19 felony adjudication and either two prior misdemeanor adjudications or one
20 prior person or nonperson felony adjudication;

21 (iv) committed prior to July 1, 2012, which, if committed by an adult
22 prior to July 1, 2012, would constitute one present drug severity level 3
23 felony adjudication and two prior drug severity level 4 or 5 adjudications;

24 (v) committed on or after July 1, 2012, which, if committed by an
25 adult on or after July 1, 2012, would constitute one present drug severity
26 level 4 felony adjudication and either two prior misdemeanor adjudications
27 or one prior person or nonperson felony adjudication; or

28 (vi) committed on or after July 1, 2012, which, if committed by an
29 adult on or after July 1, 2012, would constitute one present drug severity
30 level 4 felony adjudication and two prior drug severity level 4 or 5
31 adjudications.

32 *Offenders in this category may only be committed to a juvenile*
33 *correctional facility if the judge conducts a departure hearing and finds*
34 *substantial and compelling reasons to impose a departure sentence as*
35 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*
36 *departure sentence is imposed, offenders in this category may be*
37 *committed to a juvenile correctional facility for a minimum term of six*
38 *months and up to a maximum term of 18 months. The aftercare term for*
39 *this offender is set at a minimum term of six months and up to a maximum*
40 *term of 12 months.*

41 (C) The chronic offender III, escalating misdemeanant is defined as
42 an offender adjudicated as a juvenile offender for an offense:

43 (i) Which, if committed by an adult, would constitute one present

1 misdemeanor adjudication and either two prior misdemeanor adjudications
2 or one prior person or nonperson felony adjudication and two placement
3 failures;

4 (ii) which, if committed by an adult, would constitute one present
5 misdemeanor adjudication and two prior drug severity level 4 or 5 felony
6 adjudications and two placement failures;

7 (iii) Which, if committed by an adult, would constitute one present
8 drug severity level 4 felony adjudication and either two prior misdemeanor
9 adjudications or one prior person or nonperson felony adjudication and
10 two placement failures;

11 (iv) which, if committed by an adult, would constitute one present
12 drug severity level 4 felony adjudication and two prior drug severity level
13 4 or 5 felony adjudications and two placement failures;

14 (v) committed on or after July 1, 2012, which, if committed by an
15 adult on or after July 1, 2012, would constitute one present drug severity
16 level 5 felony adjudication and either two prior misdemeanor adjudications
17 or one prior person or nonperson felony adjudication and two placement
18 failures; or

19 (vi) committed on or after July 1, 2012, which, if committed by an
20 adult on or after July 1, 2012, would constitute one present drug severity
21 level 5 felony adjudication and two prior drug severity level 4 or 5
22 adjudications and two placement failures.

23 *Offenders in this category may only be committed to a juvenile*
24 *correctional facility if the judge conducts a departure hearing and finds*
25 *substantial and compelling reasons to impose a departure sentence as*
26 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*
27 *departure sentence is imposed, offenders in this category may be*
28 *committed to a juvenile correctional facility for a minimum term of three*
29 *months and up to a maximum term of six months. The aftercare term for*
30 *this offender is set at a minimum term of three months and up to a*
31 *maximum term of six months.*

32 (4) *Conditional Release Violators.* Upon finding the juvenile violated
33 a requirement or requirements of conditional release, the court may:

34 (A) Subject to the limitations in subsection (a) of K.S.A. 2013 Supp.
35 38-2366, and amendments thereto, commit the offender directly to a
36 juvenile correctional facility for a minimum term of three months and up
37 to a maximum term of six months. The aftercare term for this offender
38 shall be a minimum of two months and a maximum of six months, or the
39 length of the aftercare originally ordered, whichever is longer.

40 (B) Enter one or more of the following orders:

41 (i) Recommend additional conditions be added to those of the
42 existing conditional release.

43 (ii) Order the offender to serve a period of sanctions pursuant to

1 subsection (f) of K.S.A. 2013 Supp. 38-2361, and amendments thereto.

2 (iii) Revoke or restrict the juvenile's driving privileges as described in
3 subsection (c) of K.S.A. 2013 Supp. 38-2361, and amendments thereto.

4 (C) Discharge the offender from the custody of the commissioner,
5 release the commissioner from further responsibilities in the case and enter
6 any other appropriate orders.

7 (b) As used in this section:

8 (1) "Placement failure" means a juvenile offender in the custody of
9 the juvenile justice authority has significantly failed the terms of
10 conditional release or has been placed out-of-home in a community
11 placement accredited by the commissioner and has significantly violated
12 the terms of that placement or violated the terms of probation.

13 (2) "Adjudication" includes out-of-state juvenile adjudications. An
14 out-of-state offense, which if committed by an adult would constitute the
15 commission of a felony or misdemeanor, shall be classified as either a
16 felony or a misdemeanor according to the adjudicating jurisdiction. If an
17 offense which if committed by an adult would constitute the commission
18 of a felony is a felony in another state, it will be deemed a felony in
19 Kansas. The state of Kansas shall classify the offense, which if committed
20 by an adult would constitute the commission of a felony or misdemeanor,
21 as person or nonperson. In designating such offense as person or
22 nonperson, reference to comparable offenses shall be made. If the state of
23 Kansas does not have a comparable offense, the out-of-state adjudication
24 shall be classified as a nonperson offense.

25 (c) All appropriate community placement options shall have been
26 exhausted before a chronic offender III, escalating misdemeanant shall be
27 placed in a juvenile correctional facility. A court finding shall be made
28 acknowledging that appropriate community placement options have been
29 pursued and no such option is appropriate.

30 (d) The commissioner shall work with the community to provide on-
31 going support and incentives for the development of additional community
32 placements to ensure that the chronic offender III, escalating
33 misdemeanant sentencing category is not frequently utilized.

34 (e) Any juvenile offender committed to a juvenile correctional facility
35 who is adjudicated for an offense committed while such juvenile was
36 committed to a juvenile correctional facility, may be adjudicated to serve a
37 consecutive term of commitment in a juvenile correctional facility.

38 Sec. 8. K.S.A. 2013 Supp. 38-2370 is hereby amended to read as
39 follows: 38-2370. (a) For purposes of determining release of a juvenile
40 offender, a system shall be developed whereby good behavior is the
41 expected norm and negative behavior will be punished.

42 (b) The commissioner shall adopt rules and regulations to carry out
43 the provisions of this section regarding good time calculations. Such rules

1 and regulations shall provide circumstances upon which a juvenile
2 offender may earn good time credits through participation in programs
3 which may include, but not be limited to, education programs, work
4 participation, treatment programs, vocational programs, activities and
5 behavior modification. Such good time credits may also include the
6 juvenile offender's willingness to examine and confront the past behavior
7 patterns that resulted in the commission of the juvenile's offense.

8 ~~(e) If the placement sentence established in K.S.A. 2013 Supp. 38-~~
9 ~~2369, and amendments thereto, is used by the court, the juvenile offender~~
10 ~~shall serve no less than the minimum term authorized under the specific~~
11 ~~category of such placement sentence.~~

12 Sec. 9. K.S.A. 2013 Supp. 38-2372 is hereby amended to read as
13 follows: 38-2372. In any action pursuant to the revised Kansas juvenile
14 justice code in which the juvenile is adjudicated upon a plea of guilty or
15 trial by court or jury or upon completion of an appeal, the judge, if
16 sentencing the juvenile to incarceration, shall direct that, for the purpose of
17 computing juvenile's sentence and release, eligibility and conditional
18 release dates thereunder, that such sentence is to be computed from a date,
19 to be specifically designated by the court in the sentencing order. Such
20 date shall be established to reflect and shall be computed as an allowance
21 for the time which the juvenile has spent incarcerated pending the
22 disposition of the juvenile's case. In recording the date of commencement
23 of such sentence, the date as specifically set forth by the court shall be
24 used as the date of sentence and all good time calculations authorized by
25 law are to be allowed on such sentence from such date as though the
26 juvenile were actually incarcerated in a juvenile correctional facility. ~~Such~~
27 ~~credit shall not reduce the minimum term of incarceration authorized by~~
28 ~~law for the offense of which the juvenile has been adjudicated.~~

29 Sec. 10. K.S.A. 2013 Supp. 21-6607, 38-2268, 38-2360, 38-2369,
30 38-2370 and 38-2372 are hereby repealed.

31 Sec. 11. This act shall take effect and be in force from and after its
32 publication in the statute book.