

Substitute for HOUSE BILL No. 2633

By Committee on Corrections and Juvenile Justice

2-26

1 AN ACT concerning children and minors; relating to juvenile offenders;
2 risk assessment; revised Kansas juvenile justice code; prosecution as an
3 adult; sentencing; good time credits; amending K.S.A. 2013 Supp. 21-
4 6607, 38-2347, 38-2360, 38-2369 and 38-2370 and repealing the
5 existing sections.
6

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

8 Section 1. K.S.A. 2013 Supp. 21-6607 is hereby amended to read as
9 follows: 21-6607. (a) Except as required by subsection (c), nothing in this
10 section shall be construed to limit the authority of the court to impose or
11 modify any general or specific conditions of probation, suspension of
12 sentence or assignment to a community correctional services program. The
13 court services officer or community correctional services officer may
14 recommend, and the court may order, the imposition of any conditions of
15 probation, suspension of sentence or assignment to a community
16 correctional services program. For crimes committed on or after July 1,
17 1993, in presumptive nonprison cases, the court services officer or
18 community correctional services officer may recommend, and the court
19 may order, the imposition of any conditions of probation or assignment to
20 a community correctional services program. The court may at any time
21 order the modification of such conditions, after notice to the court services
22 officer or community correctional services officer and an opportunity for
23 such officer to be heard thereon. The court shall cause a copy of any such
24 order to be delivered to the court services officer and the probationer or to
25 the community correctional services officer and the community corrections
26 participant, as the case may be. The provisions of K.S.A. 75-5291, and
27 amendments thereto, shall be applicable to any assignment to a community
28 correctional services program pursuant to this section.

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

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

35 (2) avoid such persons or places of disreputable or harmful character,
36 as directed by the court, court services officer or community correctional

1 services officer;

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

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

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

7 (6) remain within the state unless the court grants permission to
8 leave;

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

11 (8) support the defendant's dependents;

12 (9) reside in a residential facility located in the community and
13 participate in educational, counseling, work and other correctional or
14 rehabilitative programs;

15 (10) perform community or public service work for local
16 governmental agencies, private corporations organized not for profit, or
17 charitable or social service organizations performing services for the
18 community;

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

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

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

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

31 (c) In addition to any other conditions of probation, suspension of
32 sentence or assignment to a community correctional services program, the
33 court shall order the defendant to comply with each of the following
34 conditions:

35 (1) The defendant shall obey all laws of the United States, the state of
36 Kansas and any other jurisdiction to the laws of which the defendant may
37 be subject;

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

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

6 (B) the correctional supervision fee imposed by this paragraph shall
7 be charged and collected by the district court. The clerk of the district
8 court shall remit all revenues received under this paragraph from
9 correctional supervision fees to the state treasurer in accordance with the
10 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
11 each such remittance, the state treasurer shall deposit the entire amount in
12 the state treasury to the credit of the state general fund, a sum equal to
13 41.67% of such remittance, and to the correctional supervision fund, a sum
14 equal to 58.33% of such remittance;

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

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

22 (4) reimburse the state general fund for all or a part of the
23 expenditures by the state board of indigents' defense services to provide
24 counsel and other defense services to the defendant. In determining the
25 amount and method of payment of such sum, the court shall take account
26 of the financial resources of the defendant and the nature of the burden that
27 payment of such sum will impose. A defendant who has been required to
28 pay such sum and who is not willfully in default in the payment thereof
29 may at any time petition the court which sentenced the defendant to waive
30 payment of such sum or of any unpaid portion thereof. If it appears to the
31 satisfaction of the court that payment of the amount due will impose
32 manifest hardship on the defendant or the defendant's immediate family,
33 the court may waive payment of all or part of the amount due or modify
34 the method of payment. The amount of attorney fees to be included in the
35 court order for reimbursement shall be the amount claimed by appointed
36 counsel on the payment voucher for indigents' defense services or the
37 amount prescribed by the board of indigents' defense services
38 reimbursement tables as provided in K.S.A. 22-4522, and amendments
39 thereto, whichever is less;

40 (5) be subject to searches of the defendant's person, effects, vehicle,
41 residence and property by a court services officer, a community
42 correctional services officer and any other law enforcement officer based
43 on reasonable suspicion of the defendant violating conditions of probation

1 or criminal activity; and

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

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

11 (e) There is hereby established in the state treasury the correctional
12 supervision fund. All moneys credited to the correctional supervision fund
13 shall be used for: (1) The implementation of and training for use of a
14 statewide, mandatory, standardized risk assessment tool or instrument as
15 specified by the Kansas sentencing commission, pursuant to K.S.A. 75-
16 5291, and amendments thereto; ; (2) *the implementation of and training*
17 *for use of a statewide, mandatory, standardized risk assessment tool or*
18 *instrument for juveniles adjudicated to be juvenile offenders*; and ~~for~~ (3)
19 evidence-based *adult and juvenile* offender supervision programs by
20 judicial branch personnel. If all expenditures for the program have been
21 paid and moneys remain in the correctional supervision fund for a fiscal
22 year, remaining moneys may be expended from the correctional
23 supervision fund to support *adult and juvenile* offender supervision by
24 court services officers. All expenditures from the correctional supervision
25 fund shall be made in accordance with appropriation acts upon warrants of
26 the director of accounts and reports issued pursuant to vouchers approved
27 by the chief justice of the Kansas supreme court or by a person or persons
28 designated by the chief justice.

29 Sec. 2. K.S.A. 2013 Supp. 38-2347 is hereby amended to read as
30 follows: 38-2347. (a) (1) Except as otherwise provided in this section, at
31 any time after commencement of proceedings under this code against a
32 juvenile and prior to the beginning of an evidentiary hearing at which the
33 court may enter a sentence as provided in K.S.A. 2013 Supp. 38-2356, and
34 amendments thereto, the county or district attorney or the county or district
35 attorney's designee may file a motion requesting that the court authorize
36 prosecution of the juvenile as an adult under the applicable criminal
37 statute. The juvenile shall be presumed to be a juvenile unless good cause
38 is shown to prosecute the juvenile as an adult. *No juvenile less than 14*
39 *years of age shall be prosecuted as an adult.*

40 (2) The alleged juvenile offender shall be presumed to be an adult if
41 the alleged juvenile offender was: (A) 14, 15, 16 or 17 years of age at the
42 time of the offense or offenses alleged in the complaint, if any such
43 offense: (i) If committed by an adult, would constitute an off-grid crime, a

1 person felony or a nondrug severity level 1 through 6 felony; (ii)
2 committed prior to July 1, 2012, if committed by an adult prior to July 1,
3 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii)
4 committed on or after July 1, 2012, if committed by an adult on or after
5 July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or
6 (iv) was committed while in possession of a firearm; or (B) charged with a
7 felony or with more than one offense, one or more of which constitutes a
8 felony, after having been adjudicated or convicted in a separate juvenile
9 proceeding as having committed an offense which would constitute a
10 felony if committed by an adult and the adjudications or convictions
11 occurred prior to the date of the commission of the new act charged and
12 prior to the beginning of an evidentiary hearing at which the court may
13 enter a sentence as provided in K.S.A. 2013 Supp. 38-2356, and
14 amendments thereto. If the juvenile is presumed to be an adult, the burden
15 is on the juvenile to rebut the presumption by a preponderance of the
16 evidence.

17 (3) At any time after commencement of proceedings under this code
18 against a juvenile offender and prior to the beginning of an evidentiary
19 hearing at which the court may enter a sentence as provided in K.S.A.
20 2013 Supp. 38-2356, and amendments thereto, the county or district
21 attorney or the county or district attorney's designee may file a motion
22 requesting that the court designate the proceedings as an extended
23 jurisdiction juvenile prosecution.

24 (4) If the county or district attorney or the county or district attorney's
25 designee files a motion to designate the proceedings as an extended
26 jurisdiction juvenile prosecution and the juvenile was 14, 15, 16 or 17
27 years of age at the time of the offense or offenses alleged in the complaint
28 and: (A) Charged with an offense: (i) If committed by an adult, would
29 constitute an off-grid crime, a person felony or a nondrug severity level 1
30 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an
31 adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3
32 felony; (iii) committed on or after July 1, 2012, if committed by an adult
33 on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4
34 felony; or (iv) was committed while in possession of a firearm; or (B)
35 charged with a felony or with more than, one offense, one or more of
36 which constitutes a felony, after having been adjudicated or convicted in a
37 separate juvenile proceeding as having committed an act which would
38 constitute a felony if committed by an adult and the adjudications or
39 convictions occurred prior to the date of the commission of the new
40 offense charged, the burden is on the juvenile to rebut the designation of
41 an extended jurisdiction juvenile prosecution by a preponderance of the
42 evidence. In all other motions requesting that the court designate the
43 proceedings as an extended jurisdiction juvenile prosecution, the juvenile

1 is presumed to be a juvenile. The burden of proof is on the prosecutor to
2 prove the juvenile should be designated as an extended jurisdiction
3 juvenile.

4 (b) The motion also may contain a statement that the prosecuting
5 attorney will introduce evidence of the offenses alleged in the complaint
6 and request that, on hearing the motion and authorizing prosecution as an
7 adult or designating the proceedings as an extended jurisdiction juvenile
8 prosecution under this code, the court may make the findings required in a
9 preliminary examination provided for in K.S.A. 22-2902, and amendments
10 thereto, and the finding that there is no necessity for further preliminary
11 examination.

12 (c) (1) Upon receiving the motion, the court shall set a time and place
13 for hearing. The court shall give notice of the hearing to the juvenile, each
14 parent, if service is possible, and the attorney representing the juvenile.
15 The motion shall be heard and determined prior to any further proceedings
16 on the complaint.

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

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

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

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

24 (D) the right to subpoena witnesses;

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

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

29 (d) If the juvenile fails to appear for hearing on the motion after
30 having been served with notice of the hearing, the court may hear and
31 determine the motion in the absence of the juvenile. If the court is unable
32 to obtain service of process and give notice of the hearing, the court may
33 hear and determine the motion in the absence of the alleged juvenile
34 offender after having given notice of the hearing at least once a week for
35 two consecutive weeks in the official county newspaper of the county
36 where the hearing will be held.

37 (e) In determining whether or not prosecution as an adult should be
38 authorized or designating the proceeding as an extended jurisdiction
39 juvenile prosecution, the court shall consider each of the following factors:

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

43 (2) whether the alleged offense was committed in an aggressive,

1 violent, premeditated or willful manner;

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

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

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

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

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

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

21 The insufficiency of evidence pertaining to any one or more of the
22 factors listed in this subsection, in and of itself, shall not be determinative
23 of the issue. Subject to the provisions of K.S.A. 2013 Supp. 38-2354, and
24 amendments thereto, written reports and other materials relating to the
25 juvenile's mental, physical, educational and social history may be
26 considered by the court.

27 (f) (1) The court may authorize prosecution as an adult upon
28 completion of the hearing if the court finds from a preponderance of the
29 evidence that the alleged juvenile offender should be prosecuted as an
30 adult for the offense charged. In that case, the court shall direct the alleged
31 juvenile offender be prosecuted under the applicable criminal statute and
32 that the proceedings filed under this code be dismissed.

33 (2) The court may designate the proceeding as an extended
34 jurisdiction juvenile prosecution upon completion of the hearing if the
35 juvenile has failed to rebut the presumption or the court finds from a
36 preponderance of the evidence that the juvenile should be prosecuted
37 under an extended jurisdiction juvenile prosecution.

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

42 (4) A juvenile who is the subject of an extended jurisdiction juvenile
43 prosecution shall have the right to a trial by jury, to the effective assistance

1 of counsel and to all other rights of a defendant pursuant to the Kansas
2 code of criminal procedure. Each court shall adopt local rules to establish
3 the basic procedures for extended jurisdiction juvenile prosecution in such
4 court's jurisdiction.

5 (g) If the juvenile is present in court and the court also finds from the
6 evidence that it appears a felony has been committed and that there is
7 probable cause to believe the felony has been committed by the juvenile,
8 the court may direct that there is no necessity for further preliminary
9 examination on the charges as provided for in K.S.A. 22-2902, and
10 amendments thereto. In that case, the court shall order the juvenile bound
11 over to the district judge having jurisdiction to try the case.

12 (h) If the juvenile is convicted, the authorization for prosecution as an
13 adult shall attach and apply to any future prosecutions of the juvenile
14 which are or would be cognizable under this code. If the juvenile is not
15 convicted, the authorization for prosecution as an adult shall not attach and
16 shall not apply to future prosecutions of the juvenile which are or would be
17 cognizable under this code.

18 (i) If the juvenile is prosecuted as an adult under subsection (a)(2)
19 and is not convicted in adult court of an offense listed in subsection (a)(2)
20 but is convicted or adjudicated of a lesser included offense, the juvenile
21 shall be a juvenile offender and receive a sentence pursuant to K.S.A. 2013
22 Supp. 38-2361, and amendments thereto.

23 Sec. 3. K.S.A. 2013 Supp. 38-2360 is hereby amended to read as
24 follows: 38-2360. (a) At any time after the juvenile has been adjudicated to
25 be a juvenile offender, the court shall order one or more of the tools
26 described in this subsection to be submitted to assist the court unless the
27 court finds that adequate and current information is available from a
28 previous investigation, report or other sources:

29 (1) An evaluation and written report by a mental health or a qualified
30 professional stating the psychological or emotional development or needs
31 of the juvenile. The court also may order a report from any mental health
32 or qualified professional who has previously evaluated the juvenile stating
33 the psychological or emotional development needs of the juvenile. If the
34 court orders an evaluation as provided in this section, a parent of the
35 juvenile shall have the right to obtain an independent evaluation at the
36 expense of the parent.

37 (2) A report of the medical condition and needs of the juvenile. The
38 court also may order a report from any physician who has been attending
39 the juvenile, stating the diagnosis, condition and treatment afforded the
40 juvenile.

41 (3) An educational needs assessment of the juvenile from the chief
42 administrative officer of the school which the juvenile attends or attended
43 to provide to the court information that is readily available which the

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

10 (4) Any other presentence investigation and report from a court
11 services officer which includes: (A) The circumstances of the offense; (B)
12 the attitude of the complainant, victim or the victim's family; (C) the
13 record of juvenile offenses; (D) the social history of the juvenile; ~~and~~ (E)
14 the present condition of the juvenile; *and (F) a summary of the results*
15 *from a standardized risk assessment tool or instrument.* Except where
16 specifically prohibited by law, all local governmental public and private
17 educational institutions and state agencies shall furnish to the officer
18 conducting the predispositional investigation the records the officer
19 requests. Predispositional investigations shall contain other information
20 prescribed by the court.

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

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

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

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

33 Sec. 4. K.S.A. 2013 Supp. 38-2369 is hereby amended to read as
34 follows: 38-2369. (a) For the purpose of committing juvenile offenders to
35 a juvenile correctional facility, the following placements shall be applied
36 by the judge in felony or misdemeanor cases. If used, the court shall
37 establish a specific term of commitment as specified in this subsection,
38 unless the judge conducts a departure hearing and finds substantial and
39 compelling reasons to impose a departure sentence as provided in K.S.A.
40 2013 Supp. 38-2371, and amendments thereto.

41 (1) *Violent Offenders.* (A) The violent offender I is defined as an
42 offender adjudicated as a juvenile offender for an offense which, if
43 committed by an adult, would constitute an off-grid felony. Offenders in

1 this category may be committed to a juvenile correctional facility for a
2 minimum term of 60 months and up to a maximum term of the offender
3 reaching the age of 22 years, six months. The aftercare term for this
4 offender is set at a minimum term of six months and up to a maximum
5 term of the offender reaching the age of 23 years.

6 (B) The violent offender II is defined as an offender adjudicated as a
7 juvenile offender for an offense which, if committed by an adult, would
8 constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this
9 category may be committed to a juvenile correctional facility for a
10 minimum term of 24 months and up to a maximum term of the offender
11 reaching the age 22 years, six months. The aftercare term for this offender
12 is set at a minimum term of six months and up to a maximum term of the
13 offender reaching the age of 23 years.

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

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

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

21 (iii) committed on or after July 1, 2012, which, if committed by an
22 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or
23 3 felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 *Offenders in this category may only be committed to a juvenile*
39 *correctional facility if the judge conducts a departure hearing and finds*
40 *substantial and compelling reasons to impose a departure sentence as*
41 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*
42 *departure sentence is imposed, offenders in this category may be*
43 *committed to a juvenile correctional facility for a minimum term of six*

1 months and up to a maximum term of 18 months. The aftercare term for
2 this offender is set at a minimum term of six months and up to a maximum
3 term of 12 months.

4 (C) The chronic offender III, escalating misdemeanor is defined as
5 an offender adjudicated as a juvenile offender for an offense:

6 (i) Which, if committed by an adult, would constitute one present
7 misdemeanor adjudication and either two prior misdemeanor adjudications
8 or one prior person or nonperson felony adjudication and two placement
9 failures;

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

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

17 (iv) which, if committed by an adult, would constitute one present
18 drug severity level 4 felony adjudication and two prior drug severity level
19 4 or 5 felony adjudications and two placement failures;

20 (v) committed on or after July 1, 2012, which, if committed by an
21 adult on or after July 1, 2012, would constitute one present drug severity
22 level 5 felony adjudication and either two prior misdemeanor adjudications
23 or one prior person or nonperson felony adjudication and two placement
24 failures; or

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

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

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

40 (A) Subject to the limitations in subsection (a) of K.S.A. 2013 Supp.
41 38-2366, and amendments thereto, commit the offender directly to a
42 juvenile correctional facility for a minimum term of three months and up
43 to a maximum term of six months. The aftercare term for this offender

1 shall be a minimum of two months and a maximum of six months, or the
2 length of the aftercare originally ordered, whichever is longer.

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

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

6 (ii) Order the offender to serve a period of sanctions pursuant to
7 subsection (f) of K.S.A. 2013 Supp. 38-2361, and amendments thereto.

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

10 (C) Discharge the offender from the custody of the commissioner,
11 release the commissioner from further responsibilities in the case and enter
12 any other appropriate orders.

13 (b) As used in this section:

14 (1) "Placement failure" means a juvenile offender in the custody of
15 the juvenile justice authority has significantly failed the terms of
16 conditional release or has been placed out-of-home in a community
17 placement accredited by the commissioner and has significantly violated
18 the terms of that placement or violated the terms of probation.

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

31 (c) All appropriate community placement options shall have been
32 exhausted before a chronic offender III, escalating misdemeanor shall be
33 placed in a juvenile correctional facility. A court finding shall be made
34 acknowledging that appropriate community placement options have been
35 pursued and no such option is appropriate.

36 (d) The commissioner shall work with the community to provide on-
37 going support and incentives for the development of additional community
38 placements to ensure that the chronic offender III, escalating
39 misdemeanor sentencing category is not frequently utilized.

40 (e) Any juvenile offender committed to a juvenile correctional facility
41 who is adjudicated for an offense committed while such juvenile was
42 committed to a juvenile correctional facility, may be adjudicated to serve a
43 consecutive term of commitment in a juvenile correctional facility.

1 Sec. 5. K.S.A. 2013 Supp. 38-2370 is hereby amended to read as
2 follows: 38-2370. (a) For purposes of determining release of a juvenile
3 offender, a system shall be developed whereby good behavior is the
4 expected norm and negative behavior will be punished.

5 (b) The commissioner shall adopt rules and regulations to carry out
6 the provisions of this section regarding good time calculations. Such rules
7 and regulations shall provide circumstances upon which a juvenile
8 offender may earn good time credits through participation in programs
9 which may include, but not be limited to, education programs, work
10 participation, treatment programs, vocational programs, activities and
11 behavior modification. Such good time credits may also include the
12 juvenile offender's willingness to examine and confront the past behavior
13 patterns that resulted in the commission of the juvenile's offense.

14 ~~(c) If the placement sentence established in K.S.A. 2013 Supp. 38-~~
15 ~~2369, and amendments thereto, is used by the court, the juvenile offender~~
16 ~~shall serve no less than the minimum term authorized under the specific~~
17 ~~category of such placement sentence.~~

18 Sec. 6. K.S.A. 2013 Supp. 21-6607, 38-2347, 38-2360, 38-2369 and
19 38-2370 are hereby repealed.

20 Sec. 7. This act shall take effect and be in force from and after its
21 publication in the statute book.