Session of 2005

SENATE BILL No. 199

By Committee on Judiciary

2-4

9 AN ACT concerning juveniles; relating to custody; amending K.S.A. 38-10 1632 and repealing the existing section. 11 12Be it enacted by the Legislature of the State of Kansas: 13 Section 1. K.S.A. 38-1632 is hereby amended to read as follows: 38-141632. (a) Length of detention. (1) Whenever an alleged juvenile offender 15 is taken into custody and is thereafter taken before the court or to a 16juvenile detention facility or youth residential facility designated by the 17court, the juvenile shall not remain detained for more than 48 hours, 18excluding Saturdays, Sundays and legal holidays, from the time the initial 19detention was imposed, unless the court determines after hearing, within 20the 48-hour period, that further detention is necessary. 21If a juvenile is detained in jail pursuant to subsection (b) of K.S.A. (2)2238-1691 and amendments thereto, the detention hearing required by this 23 section shall be held within 24 hours after the juvenile is taken into 24 custody. 25(b) Waiver of detention hearing. The right of a juvenile to a detention 26 hearing may be waived if the juvenile and the attorney for the juvenile 27 consent in writing to waive the right to a detention hearing and the judge 28 approves the waiver. Whenever the right to a detention hearing has been 29 waived, the juvenile, the attorney for the juvenile or the juvenile's parents 30 may reassert the right at any time not less than 48 hours prior to the time 31scheduled for trial by submitting a written request to the judge. Upon 32 request, the judge shall immediately set the time and place for the hear-33 ing, which shall be held not more than 48 hours after the receipt of the 34 request excluding Saturdays, Sundays and legal holidays. 35 (c) *Notice of hearing*. Whenever it is determined that a detention 36 hearing is required the court shall immediately set the time and place for 37 the hearing. Except as otherwise provided by subsection (b)(1) of K.S.A. 38 38-1691 and amendments thereto, notice of the detention hearing shall 39 be given at least 24 hours prior to the hearing, unless waived, and shall

40 be in substantially the following form:

NOTICE OF DETENTION HEARING TO: (Juvenile) (Father) (Gather) (Other having custody- relationship) On (day) (date) (year) (Address) relationship) On (day) (date) (year) (Address) relationship) On (day) (date) (year) (Address) (year) (You have the right to hire an attorney to represent the above juvenile. Upon failure hire an attorney the court will appoint an attorney for the juvenile and the juvenile, par or other person having legal custody of the juvenile may be required to repay the court the expense of the appointed attorney. The court may order one or both parents to pay cl support. Date: (Seal)	(Caption of	(Case)	(Name of C	ourt)		
(Juvenile) (Father) (Mother) (Other having custody-relationship) On	(Cuption of	Gusey	NOTICE OF	F DETENT	TION HEARING		
(Father) (Mother) (Other having custody-relationship) On	TO:						
(Mother) (Other having custody-relationship) On		(]	Juvenile)				
(Other having custody-relationship) (Address) On		((Father)				
relationship) On		(Mother)				
On,,,, at o'clockm. (day) (date) (year) there will be a hearing for the court to determine if there is a need for further detention the above named juvenile. Each parent or other person having legal custody of the juves should be present at the hearing which will be held at You have the right to hire an attorney to represent the above juvenile. Upon failure hire an attorney the court will appoint an attorney for the juvenile and the juvenile, par or other person having legal custody of the juvenile may be required to repay the court the expense of the appointed attorney. The court may order one or both parents to pay cl support. Date:		(Other l	having custody-		(Address)		
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37	cility pursuant	to this subsection	n, the co	ourt sha	all consider all relevant
38					listed in K.S.A. 38-1640
39					e juvenile to be detained
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1 the matter without unnecessary delay.

(f) *Temporary custody*. If the court determines that it is not necessary to detain the juvenile but finds that release to the custody of a parent is not in the best interests of the juvenile, the court may place the juvenile in the temporary custody of a youth residential facility or some other suitable person willing to accept temporary custody.

7 (g) The court may enter an order removing a juvenile from the cus8 tody of a parent and placing the child in the temporary custody of the
9 commissioner pursuant to K.S.A. 38-1664, and amendments thereto.

10 (h) Audio-video communications. Detention hearings may be conducted by two-way electronic audio-video communication between the 11 12alleged juvenile offender and the judge in lieu of personal presence of 13 the juvenile or the juvenile's counsel in the courtroom from any location within Kansas in the discretion of the court. The juvenile may be accom-1415panied by the juvenile's counsel during such proceedings or counsel may be personally present in court as long as a means of communication be-16 tween the juvenile and the juvenile's counsel is available for consultation 1718between the juvenile and the juvenile's counsel in confidence.

19 Sec. 2. K.S.A. 38-1632 is hereby repealed.

20 Sec. 3. This act shall take effect and be in force from and after its 21 publication in the statute book.