

HOUSE BILL No. 2377

By Representative King

2-2

9 AN ACT concerning juveniles; relating to the definition of a juvenile
10 offender; amending K.S.A. 2006 Supp. 38-2302 and repealing the ex-
11 isting section.
12

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

14 Section 1. K.S.A. 2006 Supp. 38-2302 is hereby amended to read as
15 follows: 38-2302. As used in this code, unless the context otherwise
16 requires:

17 (a) “Commissioner” means the commissioner of juvenile justice.

18 (b) “Conditional release” means release from a term of commitment
19 in a juvenile correctional facility for an aftercare term pursuant to K.S.A.
20 2006 Supp. 38-2369, and amendments thereto, under conditions estab-
21 lished by the commissioner.

22 (c) “Court-appointed special advocate” means a responsible adult,
23 other than an attorney appointed pursuant to K.S.A. 2006 Supp. 38-2306,
24 and amendments thereto, who is appointed by the court to represent the
25 best interests of a child, as provided in K.S.A. 2006 Supp. 38-2307, and
26 amendments thereto, in a proceeding pursuant to this code.

27 (d) “Educational institution” means all schools at the elementary and
28 secondary levels.

29 (e) “Educator” means any administrator, teacher or other profes-
30 sional or paraprofessional employee of an educational institution who has
31 exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A.
32 72-89b03, and amendments thereto.

33 (f) “Institution” means the following institutions: the Atchison juve-
34 nile correctional facility, the Beloit juvenile correctional facility, the Lar-
35 ned juvenile correctional facility, the Topeka juvenile correctional facility
36 and the Kansas juvenile correctional complex.

37 (g) “Investigator” means an employee of the juvenile justice authority
38 assigned by the commissioner with the responsibility for investigations
39 concerning employees at the juvenile correctional facilities and juveniles
40 in the custody of the commissioner at a juvenile correctional facility.

41 (h) “Jail” means: (1) An adult jail or lockup; or

42 (2) a facility in the same building as an adult jail or lockup, unless the
43 facility meets all applicable licensure requirements under law and there

1 is: (A) Total separation of the juvenile and adult facility spatial areas such
2 that there could be no haphazard or accidental contact between juvenile
3 and adult residents in the respective facilities; (B) total separation in all
4 juvenile and adult program activities within the facilities, including rec-
5 reation, education, counseling, health care, dining, sleeping and general
6 living activities; and (C) separate juvenile and adult staff, including man-
7 agement, security staff and direct care staff such as recreational, educa-
8 tional and counseling.

9 (i) “Juvenile” means a person to whom one or more of the following
10 applies, the person: (1) Is 10 or more years of age but less than 18 years
11 of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated
12 as a juvenile offender and continues to be subject to the jurisdiction of
13 the court.

14 (j) “Juvenile correctional facility” means a facility operated by the
15 commissioner for the commitment of juvenile offenders.

16 (k) “Juvenile corrections officer” means a certified employee of the
17 juvenile justice authority working at a juvenile correctional facility as-
18 signed by the commissioner with responsibility for maintaining custody,
19 security and control of juveniles in the custody of the commissioner at a
20 juvenile correctional facility.

21 (l) “Juvenile detention facility” means a public or private facility li-
22 censed pursuant to article 5 of chapter 65 of the Kansas Statutes Anno-
23 tated, and amendments thereto, which is used for the lawful custody of
24 alleged or adjudicated juvenile offenders.

25 (m) “Juvenile intake and assessment worker” means a responsible
26 adult authorized to perform intake and assessment services as part of the
27 intake and assessment system established pursuant to K.S.A. 75-7023, and
28 amendments thereto.

29 (n) “Juvenile offender” means a person who commits an offense
30 while 10 or more years of age but less than 18 years of age which if
31 committed by an adult would constitute the commission of a felony or
32 misdemeanor as defined by K.S.A. 21-3105, and amendments thereto, or
33 who violates the provisions of K.S.A. 21-4204a or 41-727 or subsection
34 (j) of K.S.A. 74-8810, and amendments thereto, but does not include: (1)
35 A person 14 or more years of age who commits a traffic offense, as defined
36 in subsection (d) of K.S.A. 8-2117, and amendments thereto;

37 (2) a person 16 years of age or over who commits an offense defined
38 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

39 (3) a person under 18 years of age who previously has been:

40 (A) Convicted as an adult under the Kansas criminal code;

41 (B) sentenced as an adult under the Kansas criminal code following
42 termination of status as an extended jurisdiction juvenile pursuant to
43 K.S.A. 2006 Supp. 38-2364, and amendments thereto; or

- 1 (C) convicted or sentenced as an adult in another state or foreign
2 jurisdiction under substantially similar procedures described in K.S.A.
3 2006 Supp. 38-2347, and amendments thereto, or because of attaining
4 the age of majority designated in that state or jurisdiction;
- 5 (4) *a person under 18 years of age who has violated a city ordinance*
6 *that proscribes an act that is not prohibited by state law.*
- 7 (o) “Law enforcement officer” means any person who by virtue of
8 that person’s office or public employment is vested by law with a duty to
9 maintain public order or to make arrests for crimes, whether that duty
10 extends to all crimes or is limited to specific crimes.
- 11 (p) “Parent” when used in relation to a juvenile, includes a guardian
12 and every person who is, by law, liable to maintain, care for or support
13 the juvenile.
- 14 (q) “Risk assessment tool” means an instrument administered to ju-
15 veniles which delivers a score, or group of scores, describing, but not
16 limited to describing, the juvenile’s potential risk to the community.
- 17 (r) “Sanctions house” means a facility which is operated or structured
18 so as to ensure that all entrances and exits from the facility are under the
19 exclusive control of the staff of the facility, whether or not the person
20 being detained has freedom of movement within the perimeters of the
21 facility, or which relies on locked rooms and buildings, fences or physical
22 restraint in order to control the behavior of its residents. Upon an order
23 from the court, a licensed juvenile detention facility may serve as a sanc-
24 tions house.
- 25 (s) “Warrant” means a written order by a judge of the court directed
26 to any law enforcement officer commanding the officer to take into cus-
27 tody the juvenile named or described therein.
- 28 (t) “Youth residential facility” means any home, foster home or struc-
29 ture which provides 24-hour-a-day care for juveniles and which is licensed
30 pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas
31 Statutes Annotated, and amendments thereto.
- 32 Sec. 2. K.S.A. 2006 Supp. 38-2302 is hereby repealed.
- 33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the statute book.