

HOUSE BILL No. 2033

By Committee on Corrections and Juvenile Justice

1-13

1 AN ACT concerning children and minors; relating to children in need of
2 care; juvenile crisis intervention centers; changing the criteria used to
3 refer and admit juveniles; defining behavioral health crisis; amending
4 K.S.A. 38-2202, 38-2231, 38-2243, 38-2302, 38-2330, 65-536 and 75-
5 52,164 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 38-2202 is hereby amended to read as follows: 38-
9 2202. As used in the revised Kansas code for care of children, unless the
10 context otherwise indicates:

11 (a) "Abandon" or "abandonment" means to forsake, desert or, without
12 making appropriate provision for substitute care, cease providing care for
13 the child.

14 (b) "Adult correction facility" means any public or private facility,
15 secure or nonsecure, that is used for the lawful custody of accused or
16 convicted adult criminal offenders.

17 (c) "Aggravated circumstances" means the abandonment, torture,
18 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

19 (d) "Child in need of care" means a person less than 18 years of age
20 at the time of filing of the petition or issuance of an ex parte protective
21 custody order pursuant to K.S.A. 38-2242, and amendments thereto, who:

22 (1) Is without adequate parental care, control or subsistence and the
23 condition is not due solely to the lack of financial means of the child's
24 parents or other custodian;

25 (2) is without the care or control necessary for the child's physical,
26 mental or emotional health;

27 (3) has been physically, mentally or emotionally abused or neglected
28 or sexually abused;

29 (4) has been placed for care or adoption in violation of law;

30 (5) has been abandoned or does not have a known living parent;

31 (6) is not attending school as required by K.S.A. 72-3421 or 72-3120,
32 and amendments thereto;

33 (7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-
34 8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2022 Supp. 21-6301(a)(14),
35 and amendments thereto, or, except as provided in paragraph (12), does an
36 act which, when committed by a person under 18 years of age, is

1 prohibited by state law, city ordinance or county resolution, but which is
2 not prohibited when done by an adult;

3 (8) while less than 10 years of age, commits any act that if done by an
4 adult would constitute the commission of a felony or misdemeanor as
5 defined by K.S.A. 2022 Supp. 21-5102, and amendments thereto;

6 (9) is willfully and voluntarily absent from the child's home without
7 the consent of the child's parent or other custodian;

8 (10) is willfully and voluntarily absent at least a second time from a
9 court ordered or designated placement, or a placement pursuant to court
10 order, if the absence is without the consent of the person with whom the
11 child is placed or, if the child is placed in a facility, without the consent of
12 the person in charge of such facility or such person's designee;

13 (11) has been residing in the same residence with a sibling or another
14 person under 18 years of age, who has been physically, mentally or
15 emotionally abused or neglected, or sexually abused;

16 (12) while less than 10 years of age commits the offense defined in
17 K.S.A. 2022 Supp. 21-6301(a)(14), and amendments thereto;

18 (13) has had a permanent custodian appointed and the permanent
19 custodian is no longer able or willing to serve; or

20 (14) has been subjected to an act that would constitute human
21 trafficking or aggravated human trafficking, as defined by K.S.A. 2022
22 Supp. 21-5426, and amendments thereto, or commercial sexual
23 exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and
24 amendments thereto, or has committed an act which, if committed by an
25 adult, would constitute selling sexual relations, as defined by K.S.A. 2022
26 Supp. 21-6419, and amendments thereto.

27 (e) "Citizen review board" is a group of community volunteers
28 appointed by the court and whose duties are prescribed by K.S.A. 38-2207
29 and 38-2208, and amendments thereto.

30 (f) "Civil custody case" includes any case filed under chapter 23 of
31 the Kansas Statutes Annotated, and amendments thereto, the Kansas
32 family law code, article 11 of chapter 38 of the Kansas Statutes Annotated,
33 and amendments thereto, determination of parentage, article 21 of chapter
34 59 of the Kansas Statutes Annotated, and amendments thereto, adoption
35 and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes
36 Annotated, and amendments thereto, guardians and conservators.

37 (g) "Court-appointed special advocate" means a responsible adult
38 other than an attorney guardian ad litem who is appointed by the court to
39 represent the best interests of a child, as provided in K.S.A. 38-2206, and
40 amendments thereto, in a proceeding pursuant to this code.

41 (h) "Custody" whether temporary, protective or legal, means the
42 status created by court order or statute that vests in a custodian, whether an
43 individual or an agency, the right to physical possession of the child and

1 the right to determine placement of the child, subject to restrictions placed
2 by the court.

3 (i) "Extended out of home placement" means a child has been in the
4 custody of the secretary and placed with neither parent for 15 of the most
5 recent 22 months beginning 60 days after the date at which a child in the
6 custody of the secretary was removed from the child's home.

7 (j) "Educational institution" means all schools at the elementary and
8 secondary levels.

9 (k) "Educator" means any administrator, teacher or other professional
10 or paraprofessional employee of an educational institution who has
11 exposure to a pupil specified in K.S.A. 72-6143(a), and amendments
12 thereto.

13 (l) "Harm" means physical or psychological injury or damage.

14 (m) "Interested party" means the grandparent of the child, a person
15 with whom the child has been living for a significant period of time when
16 the child in need of care petition is filed, and any person made an
17 interested party by the court pursuant to K.S.A. 38-2241, and amendments
18 thereto, or Indian tribe seeking to intervene that is not a party.

19 (n) "Jail" means:

20 (1) An adult jail or lockup; or

21 (2) a facility in the same building or on the same grounds as an adult
22 jail or lockup, unless the facility meets all applicable standards and
23 licensure requirements under law and there is: (A) Total separation of the
24 juvenile and adult facility spatial areas such that there could be no
25 haphazard or accidental contact between juvenile and adult residents in the
26 respective facilities; (B) total separation in all juvenile and adult program
27 activities within the facilities, including recreation, education, counseling,
28 health care, dining, sleeping and general living activities; and (C) separate
29 juvenile and adult staff, including management, security staff and direct
30 care staff such as recreational, educational and counseling.

31 (o) "Juvenile detention facility" means any secure public or private
32 facility used for the lawful custody of accused or adjudicated juvenile
33 offenders that must not be a jail.

34 (p) "Juvenile intake and assessment worker" means a responsible
35 adult authorized to perform intake and assessment services as part of the
36 intake and assessment system established pursuant to K.S.A. 75-7023, and
37 amendments thereto.

38 (q) "Kinship care placement" means the placement of a child in the
39 home of an adult with whom the child or the child's parent already has
40 close emotional ties.

41 (r) "Law enforcement officer" means any person who by virtue of
42 office or public employment is vested by law with a duty to maintain
43 public order or to make arrests for crimes, whether that duty extends to all

1 crimes or is limited to specific crimes.

2 (s) "Multidisciplinary team" means a group of persons, appointed by
3 the court under K.S.A. 38-2228, and amendments thereto, that has
4 knowledge of the circumstances of a child in need of care.

5 (t) "Neglect" means acts or omissions by a parent, guardian or person
6 responsible for the care of a child resulting in harm to a child, or
7 presenting a likelihood of harm, and the acts or omissions are not due
8 solely to the lack of financial means of the child's parents or other
9 custodian. Neglect may include, but shall not be limited to:

10 (1) Failure to provide the child with food, clothing or shelter
11 necessary to sustain the life or health of the child;

12 (2) failure to provide adequate supervision of a child or to remove a
13 child from a situation that requires judgment or actions beyond the child's
14 level of maturity, physical condition or mental abilities and that results in
15 bodily injury or a likelihood of harm to the child; or

16 (3) failure to use resources available to treat a diagnosed medical
17 condition if such treatment will make a child substantially more
18 comfortable, reduce pain and suffering, or correct or substantially diminish
19 a crippling condition from worsening. A parent legitimately practicing
20 religious beliefs who does not provide specified medical treatment for a
21 child because of religious beliefs shall, not for that reason, be considered a
22 negligent parent; however, this exception shall not preclude a court from
23 entering an order pursuant to K.S.A. 38-2217(a)(2), and amendments
24 thereto.

25 (u) "Parent" when used in relation to a child or children, includes a
26 guardian and every person who is by law liable to maintain, care for or
27 support the child.

28 (v) "Party" means the state, the petitioner, the child, any parent of the
29 child and an Indian child's tribe intervening pursuant to the Indian child
30 welfare act.

31 (w) "Permanency goal" means the outcome of the permanency
32 planning process, which may be reintegration, adoption, appointment of a
33 permanent custodian or another planned permanent living arrangement.

34 (x) "Permanent custodian" means a judicially approved permanent
35 guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

36 (y) "Physical, mental or emotional abuse" means the infliction of
37 physical, mental or emotional harm or the causing of a deterioration of a
38 child and may include, but shall not be limited to, maltreatment or
39 exploiting a child to the extent that the child's health or emotional well-
40 being is endangered.

41 (z) "Placement" means the designation by the individual or agency
42 having custody of where and with whom the child will live.

43 (aa) "Qualified residential treatment program" means a program

1 designated by the secretary for children and families as a qualified
2 residential treatment program pursuant to federal law.

3 (bb) "Reasonable and prudent parenting standard" means the standard
4 characterized by careful and sensible parental decisions that maintain the
5 health, safety and best interests of a child while at the same time
6 encouraging the emotional and developmental growth of the child, that a
7 caregiver shall use when determining whether to allow a child in foster
8 care under the responsibility of the state to participate in extracurricular,
9 enrichment, cultural and social activities.

10 (cc) "Relative" means a person related by blood, marriage or
11 adoption.

12 (dd) "Runaway" means a child who is willfully and voluntarily absent
13 from the child's home without the consent of the child's parent or other
14 custodian.

15 (ee) "Secretary" means the secretary for children and families or the
16 secretary's designee.

17 (ff) "Secure facility" means a facility, other than a staff secure facility
18 or juvenile detention facility, that is operated or structured so as to ensure
19 that all entrances and exits from the facility are under the exclusive control
20 of the staff of the facility, whether or not the person being detained has
21 freedom of movement within the perimeters of the facility, or that relies on
22 locked rooms and buildings, fences or physical restraint in order to control
23 behavior of its residents. No secure facility shall be in a city or county jail.

24 (gg) "Sexual abuse" means any contact or interaction with a child in
25 which the child is being used for the sexual stimulation of the perpetrator,
26 the child or another person. Sexual abuse shall include, but is not limited to,
27 allowing, permitting or encouraging a child to:

28 (1) Be photographed, filmed or depicted in pornographic material; or
29 (2) be subjected to aggravated human trafficking, as defined in
30 K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if committed in
31 whole or in part for the purpose of the sexual gratification of the offender
32 or another, or be subjected to an act that would constitute conduct
33 proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or
34 K.S.A. 2022 Supp. 21-6419 or 21-6422, and amendments thereto.

35 (hh) "Shelter facility" means any public or private facility or home,
36 other than a juvenile detention facility or staff secure facility, that may be
37 used in accordance with this code for the purpose of providing either
38 temporary placement for children in need of care prior to the issuance of a
39 dispositional order or longer term care under a dispositional order.

40 (ii) "Staff secure facility" means a facility described in K.S.A. 65-
41 535, and amendments thereto: (1) That does not include construction
42 features designed to physically restrict the movements and activities of
43 juvenile residents who are placed therein; (2) that may establish reasonable

1 rules restricting entrance to and egress from the facility; and (3) in which
2 the movements and activities of individual juvenile residents may, for
3 treatment purposes, be restricted or subject to control through the use of
4 intensive staff supervision. No staff secure facility shall be in a city or
5 county jail.

6 (jj) "Transition plan" means, when used in relation to a youth in the
7 custody of the secretary, an individualized strategy for the provision of
8 medical, mental health, education, employment and housing supports as
9 needed for the adult and, if applicable, for any minor child of the adult, to
10 live independently and specifically provides for the supports and any
11 services for which an adult with a disability is eligible including, but not
12 limited to, funding for home and community based services waivers.

13 (kk) "Youth residential facility" means any home, foster home or
14 structure that provides 24-hour-a-day care for children and that is licensed
15 pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and
16 amendments thereto.

17 (ll) "*Behavioral health crisis*" means *behavioral and conduct issues*
18 *that impact the safety or health of a child, members of the child's*
19 *household or family or members of the community, including, but not*
20 *limited to, non-life threatening mental health and substance abuse*
21 *concerns.*

22 Sec. 2. K.S.A. 38-2231 is hereby amended to read as follows: 38-
23 2231. (a) A law enforcement officer or court services officer shall take a
24 child under 18 years of age into custody when:

25 (1) The law enforcement officer or court services officer has a court
26 order commanding that the child be taken into custody as a child in need
27 of care; or

28 (2) the law enforcement officer or court services officer has probable
29 cause to believe that a court order commanding that the child be taken into
30 custody as a child in need of care has been issued in this state or in another
31 jurisdiction.

32 (b) A law enforcement officer shall take a child under 18 years of age
33 into custody when the officer:

34 (1) Reasonably believes the child will be harmed if not immediately
35 removed from the place or residence where the child has been found;

36 (2) has probable cause to believe that the child is a runaway or a
37 missing person or a verified missing person entry for the child can be
38 found in the national crime information center missing person system;

39 (3) reasonably believes the child is a victim of human trafficking,
40 aggravated human trafficking or commercial sexual exploitation of a child;
41 or

42 (4) reasonably believes the child is experiencing a ~~mental~~ *behavioral*
43 health crisis and is likely to cause harm to self or others.

1 (c) (1) If a person provides shelter to a child whom the person knows
2 is a runaway, such person shall promptly report the child's location either
3 to a law enforcement agency or to the child's parent or other custodian.

4 (2) If a person reports a runaway's location to a law enforcement
5 agency pursuant to this section and a law enforcement officer of the
6 agency has reasonable grounds to believe that it is in the child's best
7 interests, the child may be allowed to remain in the place where shelter is
8 being provided, subject to subsection (b), in the absence of a court order to
9 the contrary. If the child is allowed to so remain, the law enforcement
10 agency shall promptly notify the secretary of the child's location and
11 circumstances.

12 (d) Except as provided in subsections (a) and (b), a law enforcement
13 officer may temporarily detain and assume temporary custody of any child
14 subject to compulsory school attendance, pursuant to K.S.A. 72-3120, and
15 amendments thereto, during the hours school is actually in session and
16 shall deliver the child pursuant to K.S.A. 38-2232(g), and amendments
17 thereto.

18 Sec. 3. K.S.A. 38-2243 is hereby amended to read as follows: 38-
19 2243. (a) Upon notice and hearing, the court may issue an order directing
20 who shall have temporary custody and may modify the order during the
21 pendency of the proceedings as will best serve the child's welfare.

22 (b) A hearing pursuant to this section shall be held within 72 hours,
23 excluding Saturdays, Sundays, legal holidays, and days on which the
24 office of the clerk of the court is not accessible, following a child having
25 been taken into protective custody.

26 (c) Whenever it is determined that a temporary custody hearing is
27 required, the court shall immediately set the time and place for the hearing.
28 Notice of a temporary custody hearing shall be given to all parties and
29 interested parties.

30 (d) Notice of the temporary custody hearing shall be given at least 24
31 hours prior to the hearing. The court may continue the hearing to afford the
32 24 hours prior notice or, with the consent of the party or interested party,
33 proceed with the hearing at the designated time. If an order of temporary
34 custody is entered and the parent or other person having custody of the
35 child has not been notified of the hearing, did not appear or waive
36 appearance and requests a rehearing, the court shall rehear the matter
37 without unnecessary delay.

38 (e) Oral notice may be used for giving notice of a temporary custody
39 hearing where there is insufficient time to give written notice. Oral notice
40 is completed upon filing a certificate of oral notice.

41 (f) The court may enter an order of temporary custody after
42 determining there is probable cause to believe that the: (1) Child is
43 dangerous to self or to others; (2) child is not likely to be available within

1 the jurisdiction of the court for future proceedings; (3) health or welfare of
2 the child may be endangered without further care; (4) child has been
3 subjected to human trafficking or aggravated human trafficking, as defined
4 by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial
5 sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422,
6 and amendments thereto; (5) child is experiencing a ~~mental~~ *behavioral*
7 health crisis and is in need of treatment; or (6) child committed an act
8 which, if committed by an adult, would constitute a violation of K.S.A.
9 2022 Supp. 21-6419, and amendments thereto.

10 (g) (1) Whenever the court determines the necessity for an order of
11 temporary custody the court may place the child in the temporary custody
12 of:

13 (A) A parent or other person having custody of the child and may
14 enter a restraining order pursuant to subsection (h);

15 (B) a person, other than the parent or other person having custody,
16 who shall not be required to be licensed under article 5 of chapter 65 of the
17 Kansas Statutes Annotated, and amendments thereto;

18 (C) a youth residential facility;

19 (D) a shelter facility;

20 (E) a staff secure facility, notwithstanding any other provision of law,
21 if the child has been subjected to human trafficking or aggravated human
22 trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments
23 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
24 2022 Supp. 21-6422, and amendments thereto, or the child committed an
25 act which, if committed by an adult, would constitute a violation of K.S.A.
26 2022 Supp. 21-6419, and amendments thereto;

27 (F) after written authorization by a community mental health center, a
28 juvenile crisis intervention center, as described in K.S.A. 65-536, and
29 amendments thereto; or

30 (G) the secretary, if the child is 15 years of age or younger, or 16 or
31 17 years of age if the child has no identifiable parental or family resources
32 or shows signs of physical, mental, emotional or sexual abuse.

33 (2) If the secretary presents the court with a plan to provide services
34 to a child or family which the court finds will assure the safety of the
35 child, the court may only place the child in the temporary custody of the
36 secretary until the court finds the services are in place. The court shall
37 have the authority to require any person or entity agreeing to participate in
38 the plan to perform as set out in the plan. When the child is placed in the
39 temporary custody of the secretary, the secretary shall have the
40 discretionary authority to place the child with a parent or to make other
41 suitable placement for the child. When the child is placed in the temporary
42 custody of the secretary and the child has been subjected to human
43 trafficking or aggravated human trafficking, as defined by K.S.A. 2022

1 Supp. 21-5426, and amendments thereto, or commercial sexual
2 exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and
3 amendments thereto, or the child committed an act which, if committed by
4 an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and
5 amendments thereto, the secretary shall have the discretionary authority to
6 place the child in a staff secure facility, notwithstanding any other
7 provision of law. When the child is presently alleged, but not yet
8 adjudicated to be a child in need of care solely pursuant to K.S.A. 38-
9 2202(d)(9) or (d)(10), and amendments thereto, the child may be placed in
10 a secure facility, but the total amount of time that the child may be held in
11 such facility under this section and K.S.A. 38-2242, and amendments
12 thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal
13 holidays, and days on which the office of the clerk of the court is not
14 accessible. The order of temporary custody shall remain in effect until
15 modified or rescinded by the court or an adjudication order is entered but
16 not exceeding 60 days, unless good cause is shown and stated on the
17 record.

18 (h) If the court issues an order of temporary custody, the court may
19 also enter an order restraining any alleged perpetrator of physical, sexual,
20 mental or emotional abuse of the child from residing in the child's home;
21 visiting, contacting, harassing or intimidating the child; or attempting to
22 visit, contact, harass or intimidate the child, other family members or
23 witnesses. Such restraining order shall be served by personal service
24 pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged
25 perpetrator to whom the order is directed.

26 (i) (1) The court shall not enter the initial order removing a child from
27 the custody of a parent pursuant to this section unless the court first finds
28 probable cause that: (A) (i) The child is likely to sustain harm if not
29 immediately removed from the home;

30 (ii) allowing the child to remain in home is contrary to the welfare of
31 the child; or

32 (iii) immediate placement of the child is in the best interest of the
33 child; and

34 (B) reasonable efforts have been made to maintain the family unit and
35 prevent the unnecessary removal of the child from the child's home or that
36 an emergency exists which threatens the safety to the child.

37 (2) Such findings shall be included in any order entered by the court.
38 If the child is placed in the custody of the secretary, upon making the order
39 the court shall provide the secretary with a written copy.

40 (j) If the court enters an order of temporary custody that provides for
41 placement of the child with a person other than the parent, the court shall
42 make a child support determination pursuant to K.S.A. 38-2277, and
43 amendments thereto.

1 Sec. 4. K.S.A. 38-2302 is hereby amended to read as follows: 38-
2 2302. As used in this code, unless the context otherwise requires:

3 (a) "Commissioner" means the secretary of corrections or the
4 secretary's designee.

5 (b) "Community supervision officer" means any officer from court
6 services, community corrections or any other individual authorized to
7 supervise a juvenile on an immediate intervention, probation or
8 conditional release.

9 (c) "Conditional release" means release from a term of commitment
10 in a juvenile correctional facility for an aftercare term pursuant to K.S.A.
11 38-2369, and amendments thereto, under conditions established by the
12 secretary of corrections.

13 (d) "Court-appointed special advocate" means a responsible adult,
14 other than an attorney appointed pursuant to K.S.A. 38-2306, and
15 amendments thereto, who is appointed by the court to represent the best
16 interests of a child, as provided in K.S.A. 38-2307, and amendments
17 thereto, in a proceeding pursuant to this code.

18 (e) "Detention risk assessment tool" means a risk assessment
19 instrument adopted pursuant to K.S.A. 75-7023(f), and amendments
20 thereto, used to identify factors shown to be statistically related to a
21 juvenile's risk of failing to appear in court or reoffending pre-adjudication
22 and designed to assist in making detention determinations.

23 (f) "Educational institution" means all schools at the elementary and
24 secondary levels.

25 (g) "Educator" means any administrator, teacher or other professional
26 or paraprofessional employee of an educational institution who has
27 exposure to a pupil specified in K.S.A. 72-6143(a)(1) through (5), and
28 amendments thereto.

29 (h) "Evidence-based" means practices, policies, procedures and
30 programs demonstrated by research to produce reduction in the likelihood
31 of reoffending.

32 (i) "Graduated responses" means a system of community-based
33 sanctions and incentives developed pursuant to K.S.A. 75-7023(h) and
34 K.S.A. 38-2392, and amendments thereto, used to address violations of
35 immediate interventions, terms and conditions of probation and
36 conditional release and to incentivize positive behavior.

37 (j) "Immediate intervention" means all programs or practices
38 developed by the county to hold juvenile offenders accountable while
39 allowing such offenders to be diverted from formal court processing
40 pursuant to K.S.A. 38-2346, and amendments thereto.

41 (k) "Institution" means the Larned juvenile correctional facility and
42 the Kansas juvenile correctional complex.

43 (l) "Investigator" means an employee of the department of corrections

1 assigned by the secretary of corrections with the responsibility for
2 investigations concerning employees at the juvenile correctional facilities
3 and juveniles in the custody of the secretary of corrections at a juvenile
4 correctional facility.

5 (m) "Jail" means: (1) An adult jail or lockup; or

6 (2) a facility in the same building as an adult jail or lockup, unless the
7 facility meets all applicable licensure requirements under law and there is:
8 (A) Total separation of the juvenile and adult facility spatial areas such that
9 there could be no haphazard or accidental contact between juvenile and
10 adult residents in the respective facilities; (B) total separation in all
11 juvenile and adult program activities within the facilities, including
12 recreation, education, counseling, health care, dining, sleeping and general
13 living activities; and (C) separate juvenile and adult staff, including
14 management, security staff and direct care staff such as recreational,
15 educational and counseling.

16 (n) "Juvenile" means a person to whom one or more of the following
17 applies, the person: (1) Is 10 or more years of age but less than 18 years of
18 age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as
19 a juvenile offender and continues to be subject to the jurisdiction of the
20 court.

21 (o) "Juvenile correctional facility" means a facility operated by the
22 secretary of corrections for the commitment of juvenile offenders.

23 (p) "Juvenile corrections officer" means a certified employee of the
24 department of corrections working at a juvenile correctional facility
25 assigned by the secretary of corrections with responsibility for maintaining
26 custody, security and control of juveniles in the custody of the secretary of
27 corrections at a juvenile correctional facility.

28 (q) "Juvenile detention facility" means a public or private facility
29 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
30 Annotated, and amendments thereto, which is used for the lawful custody
31 of alleged or adjudicated juvenile offenders.

32 (r) "Juvenile intake and assessment worker" means a responsible
33 adult trained and authorized to perform intake and assessment services as
34 part of the intake and assessment system established pursuant to K.S.A.
35 75-7023, and amendments thereto.

36 (s) "Juvenile offender" means a person who commits an offense while
37 10 or more years of age but less than 18 years of age which if committed
38 by an adult would constitute the commission of a felony or misdemeanor
39 as defined by K.S.A. 2022 Supp. 21-5102, and amendments thereto, or
40 who violates the provisions of K.S.A. 41-727, K.S.A. 74-8810(j) or K.S.A.
41 2022 Supp. 21-6301(a)(14), and amendments thereto, but does not include:

42 (1) A person 14 or more years of age who commits a traffic offense,
43 as defined in K.S.A. 8-2117(d), and amendments thereto;

- 1 (2) a person 16 years of age or over who commits an offense defined
2 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
- 3 (3) a person under 18 years of age who previously has been:
- 4 (A) Convicted as an adult under the Kansas criminal code;
- 5 (B) sentenced as an adult under the Kansas criminal code following
6 termination of status as an extended jurisdiction juvenile pursuant to
7 K.S.A. 38-2364, and amendments thereto; or
- 8 (C) convicted or sentenced as an adult in another state or foreign
9 jurisdiction under substantially similar procedures described in K.S.A. 38-
10 2347, and amendments thereto, or because of attaining the age of majority
11 designated in that state or jurisdiction.
- 12 (t) "Law enforcement officer" means any person who by virtue of that
13 person's office or public employment is vested by law with a duty to
14 maintain public order or to make arrests for crimes, whether that duty
15 extends to all crimes or is limited to specific crimes.
- 16 (u) "Overall case length limit" when used in relation to a juvenile
17 adjudicated a juvenile offender means the maximum jurisdiction of the
18 court following disposition on an individual case. Pursuant to K.S.A. 38-
19 2304, and amendments thereto, the case and the court's jurisdiction shall
20 terminate once the overall case length limit expires and may not be
21 extended.
- 22 (v) "Parent" when used in relation to a juvenile, includes a guardian
23 and every person who is, by law, liable to maintain, care for or support the
24 juvenile.
- 25 (w) "Probation" means a period of community supervision ordered
26 pursuant to K.S.A. 38-2361, and amendments thereto, overseen by either
27 court services or community corrections, but not both.
- 28 (x) "Reasonable and prudent parenting standard" means the standard
29 characterized by careful and sensible parental decisions that maintain the
30 health, safety and best interests of a child while at the same time
31 encouraging the emotional and developmental growth of the child, that a
32 caregiver shall use when determining whether to allow a child in foster
33 care under the responsibility of the state to participate in extracurricular,
34 enrichment, cultural and social activities.
- 35 (y) "Reintegration plan" means a written document prepared in
36 consultation with the child's parent or guardian that:
- 37 (1) Describes the reintegration goal, which, if achieved, will most
38 likely give the juvenile and the victim of the juvenile a permanent and safe
39 living arrangement;
- 40 (2) describes the child's level of physical health, mental and
41 emotional health and educational functioning;
- 42 (3) provides an assessment of the needs of the child and family;
- 43 (4) describes the services to be provided to the child, the child's

1 family and the child's foster parents, if appropriate;

2 (5) includes a description of the tasks and responsibilities designed to
3 achieve the plan and to whom assigned;

4 (6) includes measurable objectives and time schedules for achieving
5 the plan; and

6 (7) if the child is in an out of home placement:

7 (A) Provides a statement for the basis of determining that
8 reintegration is determined not to be a viable option if such a
9 determination is made and includes a plan for another permanent living
10 arrangement;

11 (B) describes available alternatives;

12 (C) justifies the alternative placement selected, including a
13 description of the safety and appropriateness of such placement; and

14 (D) describes the programs and services that will help the child
15 prepare to live independently as an adult.

16 (z) "Risk and needs assessment" means a standardized instrument
17 administered on juveniles to identify specific risk factors and needs shown
18 to be statistically related to a juvenile's risk of reoffending and, when
19 properly addressed, can reduce a juvenile's risk of reoffending.

20 (aa) "Secretary" means the secretary of corrections or the secretary's
21 designee.

22 (bb) "Technical violation" means an act that violates the terms or
23 conditions imposed as part of a probation disposition pursuant to K.S.A.
24 38-2361, and amendments thereto, and that does not constitute a new
25 juvenile offense or a new child in need of care violation pursuant to K.S.A.
26 38-2202(d), and amendments thereto.

27 (cc) "Warrant" means a written order by a judge of the court directed
28 to any law enforcement officer commanding the officer to take into
29 custody the juvenile named or described therein.

30 (dd) "Youth residential facility" means any home, foster home or
31 structure which provides 24-hour-a-day care for juveniles and which is
32 licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of
33 the Kansas Statutes Annotated, and amendments thereto.

34 (ee) *"Behavioral health crisis" means behavioral and conduct issues*
35 *that impact the safety or health of a juvenile, members of the juvenile's*
36 *household or family or members of the community, including, but not*
37 *limited to, non-life threatening mental health and substance abuse*
38 *concerns.*

39 Sec. 5. K.S.A. 38-2330 is hereby amended to read as follows: 38-
40 2330. (a) A law enforcement officer may take a juvenile into custody
41 when:

42 (1) Any offense has been or is being committed in the officer's view;

43 (2) the officer has a warrant commanding that the juvenile be taken

1 into custody;

2 (3) the officer has probable cause to believe that a warrant or order
3 commanding that the juvenile be taken into custody has been issued in this
4 state or in another jurisdiction for an act committed therein;

5 (4) the officer has probable cause to believe that the juvenile is
6 committing or has committed an act which, if committed by an adult,
7 would constitute:

8 (A) A felony; or

9 (B) a misdemeanor and: (i) The juvenile will not be apprehended or
10 evidence of the offense will be irretrievably lost unless the juvenile is
11 immediately taken into custody; or (ii) the juvenile may cause injury to
12 self or others or damage to property or may be injured unless immediately
13 taken into custody;

14 (5) the officer has probable cause to believe that the juvenile has
15 violated an order for electronic monitoring as a term of probation; or

16 (6) the officer receives a written statement pursuant to subsection (c).

17 (b) A court services officer, juvenile community corrections officer or
18 other person authorized to supervise juveniles subject to this code, may
19 take a juvenile into custody when: (1) There is a warrant commanding that
20 the juvenile be taken into custody; or (2) the officer has probable cause to
21 believe that a warrant or order commanding that the juvenile be taken into
22 custody has been issued in this state or in another jurisdiction for an act
23 committed therein.

24 (c) Any court services officer, juvenile community corrections officer
25 or other person authorized to supervise juveniles subject to this code, may
26 request a warrant by giving the court a written statement setting forth that
27 the juvenile, in the judgment of the court services officer, juvenile
28 community corrections officer or other person authorized to supervise
29 juveniles subject to this code:

30 (1) (A) Has violated the condition of the juvenile's conditional release
31 from detention or probation, for the third or subsequent time; and

32 (B) poses a significant risk of physical harm to another or damage to
33 property; or

34 (2) has absconded from supervision.

35 (d) (1) A juvenile taken into custody by a law enforcement officer or
36 other person authorized pursuant to subsection (b) shall be brought without
37 unnecessary delay to the custody of the juvenile's parent or other
38 custodian, unless there are reasonable grounds to believe that such action
39 would not be in the best interests of the child or would pose a risk to
40 public safety or property.

41 (2) If the juvenile cannot be delivered to the juvenile's parent or
42 custodian, the officer may:

43 (A) Issue a notice to appear pursuant to subsection (g);

1 (B) contact or deliver the juvenile to an intake and assessment worker
2 for completion of the intake and assessment process pursuant to K.S.A.
3 75-7023, and amendments thereto; or

4 (C) if the juvenile is determined to not be detention eligible based on
5 a standardized detention risk assessment tool and is experiencing a ~~mental~~
6 *behavioral* health crisis, deliver a juvenile to a juvenile crisis intervention
7 center, as described in K.S.A. 65-536, and amendments thereto, after
8 written authorization by a community mental health center.

9 (3) It shall be the duty of the officer to furnish the county or district
10 attorney and the juvenile intake and assessment worker if the officer has
11 delivered the juvenile to the worker or issued a notice to appear consistent
12 with subsection (g), with all of the information in the officer's possession
13 pertaining to the juvenile, the juvenile's parent or other persons interested
14 in or likely to be interested in the juvenile and all other facts and
15 circumstances which caused the juvenile to be arrested or taken into
16 custody.

17 (e) In the absence of a court order to the contrary, the court or
18 officials designated by the court, the county or district attorney or the law
19 enforcement agency taking a juvenile into custody shall direct the release
20 prior to the time specified by K.S.A. 38-2343(a), and amendments thereto.
21 In addition, pursuant to K.S.A. 75-7023 and K.S.A. 38-2346, and
22 amendments thereto, a juvenile intake and assessment worker shall direct
23 the release of a juvenile prior to a detention hearing after the completion of
24 the intake and assessment process.

25 (f) Whenever a person 18 years of age or more is taken into custody
26 by a law enforcement officer for an alleged offense which was committed
27 prior to the time the person reached the age of 18, the officer shall notify
28 and refer the matter to the court for proceedings pursuant to this code,
29 except that the provisions of this code relating to detention hearings shall
30 not apply to that person. If such person is eligible for detention, and all
31 suitable alternatives to detention have been exhausted, the person shall be
32 detained in jail. Unless the law enforcement officer took the person into
33 custody pursuant to a warrant issued by the court and the warrant specifies
34 the amount of bond or indicates that the person may be released on
35 personal recognizance, the person shall be taken before the court of the
36 county where the alleged act took place or, at the request of the person, the
37 person shall be taken, without delay, before the nearest court. The court
38 shall fix the terms and conditions of an appearance bond upon which the
39 person may be released from custody. The provisions of article 28 of
40 chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and
41 amendments thereto, relating to appearance bonds and review of
42 conditions and release shall be applicable to appearance bonds provided
43 for in this section.

1 (g) (1) Whenever a law enforcement officer detains any juvenile and
2 such juvenile is not immediately taken to juvenile intake and assessment
3 services, the officer may serve upon such juvenile a written notice to
4 appear. Such notice to appear shall contain the name and address of the
5 juvenile detained, the crime charged and the location and phone number of
6 the juvenile intake and assessment services office where the juvenile will
7 need to appear with a parent or guardian.

8 (2) The juvenile intake and assessment services office specified in
9 such notice to appear must be contacted by the juvenile or a parent or
10 guardian no more than 48 hours after such notice is given, excluding
11 weekends and holidays.

12 (3) The juvenile detained, in order to secure release as provided in
13 this section, must give a written promise to call within the time specified
14 by signing the written notice prepared by the officer. The original notice
15 shall be retained by the officer and a copy shall be delivered to the juvenile
16 detained and that juvenile's parent or guardian if such juvenile is under 18
17 years of age. The officer shall then release the juvenile.

18 (4) The law enforcement officer shall cause to be filed, without
19 unnecessary delay, a complaint with juvenile intake and assessment
20 services in which a juvenile released pursuant to paragraph (3) is given
21 notice to appear, charging the crime stated in such notice. A copy shall also
22 be provided to the district or county attorney. If the juvenile released fails
23 to contact juvenile intake and assessment services as required in the notice
24 to appear, juvenile intake and assessment services shall notify the district
25 or county attorney.

26 (5) The notice to appear served pursuant to paragraph (1) and the
27 complaint filed pursuant to paragraph (4) may be provided to the juvenile
28 in a single citation.

29 Sec. 6. K.S.A. 65-536 is hereby amended to read as follows: 65-536.

30 (a) A juvenile crisis intervention center is a facility that provides short-
31 term observation, assessment, treatment and case planning, and referral for
32 any juvenile who is experiencing a ~~mental~~ *behavioral* health crisis and is
33 likely to cause harm to self or others. Such centers shall:

34 (1) Address or ensure access to the broad range of services to meet
35 the needs of a juvenile admitted to the center, including, but not limited to,
36 medical, psychiatric, psychological, social ~~and~~, educational *and substance*
37 *abuse related* services;

38 (2) not include construction features designed to physically restrict
39 the movements and activities of juveniles, but shall have a design,
40 structure, interior and exterior environment, and furnishings to promote a
41 safe, comfortable and therapeutic environment for juveniles admitted to
42 the center;

43 (3) implement written policies and procedures that include the use of

1 a combination of supervision, inspection and accountability to promote
2 safe and orderly operations; and

3 (4) implement written policies and procedures for staff monitoring of
4 all center entrances and exits.

5 (b) A juvenile crisis intervention center shall provide treatment to
6 juveniles admitted to such center, as appropriate while admitted.

7 (c) A juvenile crisis intervention center may be on the same premises
8 as that of another licensed facility. If the juvenile crisis intervention center
9 is on the same premises as that of another licensed facility, the living unit
10 of the juvenile crisis intervention center shall be maintained in a separate,
11 self-contained unit. No juvenile crisis intervention center shall be in a city
12 or county jail or a juvenile detention facility.

13 (d) (1) A juvenile may be admitted to a juvenile crisis intervention
14 center when:

15 (A) The head of such center determines such juvenile is in need of
16 treatment and likely to cause harm to self or others;

17 (B) a qualified mental health professional from a community mental
18 health center has given written authorization for such juvenile to be
19 admitted to a juvenile crisis intervention center; and

20 (C) no other more appropriate treatment services are available and
21 accessible to the juvenile at the time of admission.

22 (2) A juvenile may be admitted to a juvenile crisis intervention center
23 for not more than 30 days. A parent with legal custody or legal guardian of
24 a juvenile placed in a juvenile crisis intervention center may remove such
25 juvenile from the center at any time. If the removal may cause the juvenile
26 to become a child in need of care pursuant to K.S.A. 38-2202(d), and
27 amendments thereto, the head of a juvenile crisis intervention center may
28 report such concerns to the department for children and families or law
29 enforcement or may request the county or district attorney to initiate
30 proceedings pursuant to the revised Kansas code for care of children. If the
31 head of a juvenile crisis intervention center determines the most
32 appropriate action is to request the county or district attorney to initiate
33 proceedings pursuant to the revised Kansas code for care of children, the
34 head of such center shall make such request and shall keep such juvenile in
35 the center for an additional 24-hour period to initiate the appropriate
36 proceedings.

37 (3) When a juvenile is released from a juvenile crisis intervention
38 center, the managed care organization, if the juvenile is a medicaid
39 recipient, and the community mental health center serving the area where
40 the juvenile is being discharged shall be involved with discharge planning.
41 Within seven days prior to the discharge of a juvenile, the head of the
42 juvenile crisis intervention center shall give written notice of the date and
43 time of the discharge to the patient, the managed care organization, if the

1 juvenile is a medicaid recipient, and the community mental health center
2 serving the area where the juvenile is being discharged, and the patient's
3 parent, custodian or legal guardian.

4 (e) (1) Upon admission to a juvenile crisis intervention center, and if
5 the juvenile is a medicaid recipient, the managed care organization shall
6 approve services as recommended by the head of the juvenile crisis
7 intervention center. Within 14 days after admission, the head of the
8 juvenile crisis intervention center shall develop a plan of treatment for the
9 juvenile in collaboration with the managed care organization.

10 (2) Nothing in this subsection shall prohibit the department of health and
11 environment from administering or reimbursing state medicaid services to
12 any juvenile admitted to a juvenile crisis intervention center pursuant to a
13 waiver granted under section 1915(c) of the federal social security act,
14 provided that such services are not administered through a managed care
15 delivery system.

16 (3) Nothing in this subsection shall prohibit the department of health
17 and environment from reimbursing any state medicaid services that qualify
18 for reimbursement and that are provided to a juvenile admitted to a
19 juvenile crisis intervention center.

20 (4) Nothing in this subsection shall impair or otherwise affect the
21 validity of any contract in existence on July 1, 2018, between a managed
22 care organization and the department of health and environment to provide
23 state medicaid services.

24 (5) On or before January 1, 2019, the secretary of health and
25 environment shall submit to the United States centers for medicare and
26 medicaid services any approval request necessary to implement this
27 subsection.

28 (f) The secretary for children and families, in consultation with the
29 attorney general, shall promulgate rules and regulations to implement the
30 provisions of this section on or before January 1, 2019.

31 (g) The secretary for children and families shall annually report
32 information on outcomes of juveniles admitted into juvenile crisis
33 intervention centers to the joint committee on corrections and juvenile
34 justice oversight, the corrections and juvenile justice committee of the
35 house of representatives and the judiciary committee of the senate. Such
36 report shall include:

37 (1) The number of admissions, releases and the lengths of stay for
38 juveniles admitted to juvenile crisis intervention centers;

39 (2) services provided to juveniles admitted;

40 (3) needs of juveniles admitted determined by evidence-based
41 assessment; and

42 (4) success and recidivism rates, including information on the
43 reduction of involvement of the child welfare system and juvenile justice

1 system with the juvenile.

2 (h) The secretary of corrections may enter into memorandums of
3 agreement with other cabinet agencies to provide funding, not to exceed
4 \$2,000,000 annually, from the evidence-based programs account of the
5 state general fund or other available appropriations for juvenile crisis
6 intervention services.

7 (i) For the purposes of this section:

8 (1) *"Behavioral health crisis"* means behavioral and conduct issues
9 that impact the safety or health of a juvenile, members of the juvenile's
10 household or family or members of the community, including, but not
11 limited to, non-life threatening mental health and substance abuse
12 concerns;

13 (2) "head of a juvenile crisis intervention center" means the
14 administrative director of a juvenile crisis intervention center or such
15 person's designee;

16 ~~(2)~~(3) "juvenile" means a person who is less than 18 years of age;

17 ~~(3)~~(4) "likely to cause harm to self or others" means that a juvenile,
18 by reason of the juvenile's *behavioral health condition*, mental disorder or
19 mental condition is likely, in the reasonably foreseeable future, to cause
20 substantial physical injury or physical abuse to self or others or substantial
21 damage to another's property, as evidenced by behavior threatening,
22 attempting or causing such injury, abuse or damage;

23 ~~(4)~~(5) "treatment" means any service intended to promote the mental
24 health of the patient and rendered by a qualified professional, licensed or
25 certified by the state to provide such service as an independent practitioner
26 or under the supervision of such practitioner; and

27 ~~(5)~~(6) "qualified mental health professional" means a physician or
28 psychologist who is employed by a participating mental health center or
29 who is providing services as a physician or psychologist under a contract
30 with a participating mental health center, a licensed masters level
31 psychologist, a licensed clinical psychotherapist, a licensed marriage and
32 family therapist, a licensed clinical marriage and family therapist, a
33 licensed professional counselor, a licensed clinical professional counselor,
34 a licensed specialist social worker or a licensed master social worker or a
35 registered nurse who has a specialty in psychiatric nursing, who is
36 employed by a participating mental health center and who is acting under
37 the direction of a physician or psychologist who is employed by, or under
38 contract with, a participating mental health center.

39 (j) This section shall be part of and supplemental to article 5 of
40 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

41 Sec. 7. K.S.A. 75-52,164 is hereby amended to read as follows: 75-
42 52,164. (a) There is hereby established in the state treasury the evidence-
43 based programs account of the state general fund, which shall be

1 administered by the department of corrections. All expenditures from the
2 evidence-based programs account of the state general fund shall be for the
3 development and implementation of evidence-based community programs
4 and practices for juvenile offenders, juveniles experiencing ~~mental~~
5 *behavioral* health crisis and their families by community supervision
6 offices, including, but not limited to, juvenile intake and assessment, court
7 services, community corrections and juvenile crisis intervention centers.
8 All expenditures from the evidence-based programs account of the state
9 general fund shall be made in accordance with appropriation acts upon
10 warrants of the director of accounts and reports issued pursuant to
11 vouchers approved by the secretary of corrections or the secretary's
12 designee.

13 (b) At least annually, throughout the year, the secretary of corrections
14 shall determine and certify to the director of accounts and reports the
15 amount in each account of the state general fund of a state agency that has
16 been determined by the secretary to be actual or projected cost savings as a
17 result of cost avoidance resulting from decreased reliance on incarceration
18 in the juvenile correctional facility and placement in youth residential
19 centers. The baseline shall be calculated on the cost of incarceration and
20 placement in fiscal year 2015.

21 (c) Upon receipt of a certification pursuant to subsection (b), the
22 director of accounts and reports shall transfer the amount certified
23 pursuant to subsection (b) from each account of the state general fund of a
24 state agency that has been determined by the secretary of corrections to be
25 actual or projected cost savings to the evidence-based programs account of
26 the state general fund.

27 (d) Prioritization of evidence-based programs account of the state
28 general fund moneys will be given to regions that demonstrate a high rate
29 of out-of-home placement of juvenile offenders per capita that have few
30 existing community-based alternatives.

31 (e) During fiscal years 2017 and 2018, the secretary of corrections
32 shall transfer an amount not to exceed \$8,000,000 from appropriated
33 department of corrections moneys from the state general fund or any
34 available special revenue fund or funds that are budgeted for the purposes
35 of facilitating the development and implementation of new community
36 placements in conjunction with the reduction in out-of-home placements.

37 (f) The evidence-based programs account of the state general fund
38 and any other moneys transferred pursuant to this section shall be used for
39 the purposes set forth in this section and for no other governmental
40 purposes. It is the intent of the legislature that the funds and the moneys
41 deposited in this fund shall remain intact and inviolate for the purposes set
42 forth in this section.

43 Sec. 8. K.S.A. 38-2202, 38-2231, 38-2243, 38-2302, 38-2330, 65-536

1 and 75-52,164 are hereby repealed.

2 Sec. 9. This act shall take effect and be in force from and after its
3 publication in the statute book.