

HOUSE BILL No. 2744

By Committee on Federal and State Affairs

3-16

1 AN ACT concerning children and minors; relating to risk and needs
2 assessment for certain children in need of care; overall case length
3 limits for juvenile offenders; requiring the department of corrections to
4 create juvenile justice data systems; increasing use of evidence-based
5 programs account money; amending K.S.A. 75-52,162 and 75-52,164
6 and K.S.A. 2019 Supp. 38-2203, 38-2304 and 38-2391 and repealing
7 the existing sections.
8

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

10 New Section 1. (a) On or before October 1, 2020, the secretary of
11 corrections and the secretary for children and families shall enter into a
12 memorandum of understanding to coordinate administering a risk and
13 needs assessment, as defined in K.S.A. 2019 Supp. 38-2302, and
14 amendments thereto, to children who have been identified as exhibiting
15 behavior that could lead to offending behavior during the course of a child
16 in need of care proceeding.

17 (b) The memorandum of understanding shall include procedures for
18 allowing children identified pursuant to subsection (a) to participate in
19 evidence-based community programs offered pursuant to K.S.A. 75-
20 52,164, and amendments thereto.

21 (c) A copy of the memorandum of understanding shall be provided to
22 the joint committee on corrections and juvenile justice oversight, the house
23 of representatives standing committee on corrections and juvenile justice
24 and the senate standing committee on judiciary.

25 Sec. 2. K.S.A. 2019 Supp. 38-2203 is hereby amended to read as
26 follows: 38-2203. (a) Proceedings concerning any child who may be a
27 child in need of care shall be governed by this code, except in those
28 instances when the court knows or has reason to know that an Indian child
29 is involved in the proceeding, in which case, the Indian child welfare act of
30 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may
31 apply to: The filing to initiate a child in need of care proceeding, K.S.A.
32 2019 Supp. 38-2234, and amendments thereto; ex parte custody orders,
33 K.S.A. 2019 Supp. 38-2242, and amendments thereto; temporary custody
34 hearing, K.S.A. 2019 Supp. 38-2243, and amendments thereto;
35 adjudication, K.S.A. 2019 Supp. 38-2247, and amendments thereto;
36 burden of proof, K.S.A. 2019 Supp. 38-2250, and amendments thereto;

1 disposition, K.S.A. 2019 Supp. 38-2255, and amendments thereto;
2 permanency hearings, K.S.A. 2019 Supp. 38-2264, and amendments
3 thereto; termination of parental rights, K.S.A. 2019 Supp. 38-2267, 38-
4 2268 and 38-2269, and amendments thereto; establishment of permanent
5 custodianship, K.S.A. 2019 Supp. 38-2268 and 38-2272, and amendments
6 thereto; the placement of a child in any foster, pre-adoptive and adoptive
7 home and the placement of a child in a guardianship arrangement under
8 article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments
9 thereto.

10 (b) Subject to the uniform child custody jurisdiction and enforcement
11 act, K.S.A. 2019 Supp. 23-37,101 through 23-37,405, and amendments
12 thereto, the district court shall have original jurisdiction of proceedings
13 pursuant to this code.

14 (c) The court acquires jurisdiction over a child by the filing of a
15 petition pursuant to this code or upon issuance of an ex parte order
16 pursuant to K.S.A. 2019 Supp. 38-2242, and amendments thereto. When
17 the court acquires jurisdiction over a child in need of care, jurisdiction may
18 continue until the child has: (1) Become 18 years of age, or until June 1 of
19 the school year during which the child became 18 years of age if the child
20 is still attending high school unless there is no court approved transition
21 plan, in which event jurisdiction may continue until a transition plan is
22 approved by the court or until the child reaches the age of 21; (2) been
23 adopted; or (3) been discharged by the court. Any child 18 years of age or
24 over may request, in writing to the court, that the jurisdiction of the court
25 cease. The court shall give notice of the request to all parties and interested
26 parties and 30 days after receipt of the request, jurisdiction will cease.

27 (d) When it is no longer appropriate for the court to exercise
28 jurisdiction over a child, the court, upon its own motion or the motion of a
29 party or interested party at a hearing or upon agreement of all parties or
30 interested parties, shall enter an order discharging the child. Except upon
31 request of the child pursuant to subsection (c), the court shall not enter an
32 order discharging a child until June 1 of the school year during which the
33 child becomes 18 years of age if the child is in an out-of-home placement,
34 is still attending high school and has not completed the child's high school
35 education.

36 (e) When a petition is filed under this code, a person who is alleged to
37 be under 18 years of age shall be presumed to be under that age for the
38 purposes of this code, unless the contrary is proved.

39 (f) A court's order issued in a proceeding pursuant to this code; shall
40 take precedence over such orders in a civil custody case, a proceeding
41 under article 31 of chapter 60 of the Kansas Statutes Annotated, and
42 amendments thereto, protection from abuse act, or a comparable case in
43 another jurisdiction, except as provided by K.S.A. 2019 Supp. 23-37,101

1 through 23-37,405, and amendments thereto, uniform child custody
2 jurisdiction and enforcement act.

3 (g) *If a child is eligible to receive services from the Kansas*
4 *department for children and families, the department of corrections or the*
5 *judicial branch, such agencies shall collaborate to provide such services.*
6 *Nothing in this subsection shall preclude the child from accessing services*
7 *provided by the Kansas department for children and families, the*
8 *department of corrections, the judicial branch or any other state agency if*
9 *the child is otherwise eligible for the services.*

10 Sec. 3. K.S.A. 2019 Supp. 38-2304 is hereby amended to read as
11 follows: 38-2304. (a) Except as provided in K.S.A. 2019 Supp. 38-2347,
12 and amendments thereto, proceedings concerning a juvenile shall be
13 governed by the provisions of this code.

14 (b) The district court shall have original jurisdiction to receive and
15 determine proceedings under this code.

16 (c) When a complaint is filed under this code, the juvenile shall be
17 presumed to be subject to this code, unless the contrary is proved.

18 (d) Once jurisdiction is acquired by the district court over an alleged
19 juvenile offender, except as otherwise provided in subsection (e),
20 jurisdiction shall continue until one of the following occurs:

21 (1) The complaint is dismissed;

22 (2) the juvenile is adjudicated not guilty at trial;

23 (3) the juvenile, after being adjudicated guilty and sentenced:

24 (i) Successfully completes the term of probation;

25 (ii) is discharged by the secretary pursuant to K.S.A. 2019 Supp. 38-
26 2376, and amendments thereto;

27 (iii) reaches the juvenile's 21st birthday and no exceptions apply that
28 extend jurisdiction beyond age 21; or

29 (iv) reaches the overall case length limit;

30 (4) the court terminates jurisdiction; or

31 (5) the juvenile is convicted of a crime as an adult pursuant to chapter
32 22 of the Kansas Statutes Annotated, and amendments thereto.

33 (e) Once jurisdiction is acquired by the district court over an alleged
34 juvenile offender, it shall continue beyond the juvenile offender's 21st
35 birthday but ~~no~~ not later than the juvenile offender's 23rd birthday if:

36 (1) The juvenile offender is sentenced pursuant to K.S.A. 2019 Supp.
37 38-2369, and amendments thereto, and the term of the sentence including
38 successful completion of conditional release extends beyond the juvenile
39 offender's 21st birthday but does not extend beyond the overall case length
40 limit; or

41 (2) the juvenile offender is sentenced pursuant to an extended
42 jurisdiction juvenile prosecution and continues to successfully serve the
43 sentence imposed pursuant to the revised Kansas juvenile justice code.

1 (f) Termination of jurisdiction pursuant to this section shall have no
 2 effect on the juvenile offender's continuing responsibility to pay restitution
 3 ordered.

4 (g) (1) If a juvenile offender, at the time of sentencing, is in an ~~out of~~
 5 ~~home~~ *out-of-home* placement in the custody of the secretary for children
 6 and families under the Kansas code for care of children, the sentencing
 7 court may order the continued placement of the juvenile offender as a child
 8 in need of care.

9 (2) Court services, community corrections and the department of
 10 corrections shall address the risks and needs of the juvenile offender
 11 according to the results of the risk and needs assessment.

12 ~~(3) If the juvenile offender is placed in the custody of the secretary of~~
 13 ~~corrections, the secretary for children and families shall be responsible for~~
 14 ~~collaborating with the department of corrections to furnish services~~
 15 ~~ordered in the child in need of care proceeding during the time of the~~
 16 ~~placement pursuant to the revised Kansas juvenile justice code. Nothing in~~
 17 ~~this subsection shall preclude the juvenile offender from accessing services~~
 18 ~~provided by the Kansas department for children and families or any other~~
 19 ~~state agency if the juvenile offender is otherwise eligible for the services.~~

20 *(h) If a juvenile or juvenile offender is eligible to receive services*
 21 *from the Kansas department for children and families, the department of*
 22 *corrections or the judicial branch, such agencies shall collaborate to*
 23 *provide such services. Nothing in this code shall preclude the juvenile or*
 24 *juvenile offender from accessing services provided by the Kansas*
 25 *department for children and families, the department of corrections, the*
 26 *judicial branch or any other state agency if the juvenile or juvenile*
 27 *offender is otherwise eligible for the services.*

28 ~~(h)(i)~~ (i) A court's order issued in a proceeding pursuant to this code,
 29 shall take precedence over such orders in a proceeding under chapter 23 of
 30 the Kansas Statutes Annotated, and amendments thereto, the Kansas
 31 family law code, a proceeding under article 31 of chapter 60 of the Kansas
 32 Statutes Annotated, and amendments thereto, protection from abuse act, a
 33 proceeding under article 21 of chapter 59 of the Kansas Statutes
 34 Annotated, and amendments thereto, adoption and relinquishment act, a
 35 proceeding under article 30 of chapter 59 of the Kansas Statutes
 36 Annotated, and amendments thereto, guardians and conservators, or a
 37 comparable case in another jurisdiction, except as provided by K.S.A.
 38 2019 Supp. 23-37,101 et seq., and amendments thereto, uniform child
 39 custody jurisdiction and enforcement act.

40 Sec. 4. K.S.A. 2019 Supp. 38-2391 is hereby amended to read as
 41 follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to
 42 K.S.A. 2019 Supp. 38-2356, and amendments thereto, modification of
 43 sentence pursuant to K.S.A. 2019 Supp. 38-2367, and amendments thereto,

1 or violation of a condition of sentence pursuant to K.S.A. 2019 Supp. 38-
2 2368, and amendments thereto, the court may impose one or more of the
3 sentencing alternatives under K.S.A. 2019 Supp. 38-2361, and
4 amendments thereto, for a period of time pursuant to this section and
5 K.S.A. 2019 Supp. 38-2369, and amendments thereto. The period of time
6 ordered by the court shall not exceed the overall case length limit.

7 (b) Except as provided in subsection (c), the overall case length limit
8 shall be calculated based on the adjudicated offense and the results of a
9 risk and needs assessment, as follows:

10 (1) Offenders adjudicated for a misdemeanor may remain under the
11 jurisdiction of the court for up to 12 months;

12 (2) low-risk and moderate-risk offenders adjudicated for a felony may
13 remain under court jurisdiction for up to 15 months; and

14 (3) high-risk offenders adjudicated for a felony may remain under
15 court jurisdiction for up to 18 months.

16 (c) There shall be no overall case length limit for a juvenile
17 adjudicated for a felony which, if committed by an adult, would constitute
18 an off-grid felony or a nondrug severity level 1 through 4 person felony.

19 (d) When a juvenile is adjudicated for multiple counts, the maximum
20 overall case length shall be calculated based on the most severe
21 adjudicated count or any other adjudicated count at the court's discretion.
22 The court shall not run multiple adjudicated counts consecutively.

23 (e) When the juvenile is adjudicated for multiple cases
24 simultaneously, the court shall run ~~those~~ such cases concurrently.

25 (f) Upon expiration of the overall case length limit as defined in
26 subsection (b), the court's jurisdiction terminates and shall not be
27 extended, *except as provided in subsection (g)(2)*.

28 (g) (1) For the purposes of placing juvenile offenders on probation
29 pursuant to K.S.A. 2019 Supp. 38-2361, and amendments thereto, the
30 court shall establish a specific term of probation as specified in this
31 subsection based on the most serious adjudicated count in combination
32 with the results of a risk and needs assessment, as follows, except that the
33 term of probation shall not exceed the overall case length limit:

34 (A) Low-risk and moderate-risk offenders adjudicated for a
35 misdemeanor and low-risk offenders adjudicated for a felony may be
36 placed on probation for a term up to six months;

37 (B) high-risk offenders adjudicated for a misdemeanor and moderate-
38 risk offenders adjudicated for a felony may be placed on probation for a
39 term up to nine months; and

40 (C) high-risk offenders adjudicated for a felony may be placed on
41 probation for a term up to 12 months.

42 (2) The court may extend the term of probation if a juvenile needs
43 time to complete an evidence-based program as determined to be

1 necessary based on the results of a validated risk and needs assessment
2 *and, if necessary, may extend the overall case length limit to allow for*
3 *completion of such program when failure to complete such program is due*
4 *to delay by the juvenile.* The court may also extend the term of probation
5 for good cause shown for one month for low-risk offenders, three months
6 for moderate-risk offenders and six months for high-risk offenders. Prior
7 to extension of the initial probationary term, the court shall find and enter
8 into the written record the criteria permitting extension of probation.
9 Extensions of probation *and the overall case length limit* shall only be
10 granted incrementally ~~and shall not exceed the overall case length limit.~~
11 When the court extends the term of probation for a juvenile offender, the
12 court services officer or community correctional services officer
13 responsible for monitoring such juvenile offender shall record the reason
14 given for extending probation. Court services officers shall report such
15 records to the office of judicial administration, and community
16 correctional services officers shall report such records to the department of
17 corrections. The office of judicial administration and the department of
18 corrections shall report such recorded data to the Kansas juvenile justice
19 oversight committee on a quarterly basis.

20 (3) The probation term limits do not apply to those offenders
21 adjudicated for an offense which, if committed by an adult, would
22 constitute an off-grid crime, rape as defined in K.S.A. 2019 Supp. 21-
23 5503(a)(1), and amendments thereto, aggravated criminal sodomy as
24 defined in K.S.A. 2019 Supp. 21-5504(b)(3), and amendments thereto, or
25 murder in the second degree as defined in K.S.A. 2019 Supp. 21-5403, and
26 amendments thereto. Such offenders may be placed on probation for a
27 term consistent with the overall case length limit.

28 (4) The probation term limits and overall case length limits provided
29 in this section shall be tolled during any time that the offender has
30 absconded from supervision while on probation, and the time on such
31 limits shall not start to run again until the offender is located and brought
32 back to the jurisdiction.

33 (h) For the purpose of placing juvenile offenders in detention
34 pursuant to K.S.A. 2019 Supp. 38-2361 and 38-2369, and amendments
35 thereto, the court shall establish a specific term of detention. The term of
36 detention shall not exceed the overall case length limit or the cumulative
37 detention limit. Cumulative detention use shall be limited to a maximum
38 of 45 days over the course of the juvenile offender's case, except that there
39 shall be no limit on cumulative detention for juvenile offenders
40 adjudicated for a felony which, if committed by an adult, would constitute
41 an off-grid felony or a nondrug severity level 1 through 4 person felony.

42 (i) The provisions of this section shall apply upon disposition or 15
43 days after adjudication, whichever is sooner, unless the juvenile fails to

1 appear for such juvenile's dispositional hearing. If a juvenile fails to appear
2 at such juvenile's dispositional hearing, the probation term limits and
3 overall case length limits provided in this section shall not apply until the
4 juvenile is brought before the court for disposition in such juvenile's case.

5 (j) This section shall be *a* part of and supplemental to the revised
6 Kansas juvenile justice code.

7 Sec. 5. K.S.A. 75-52,162 is hereby amended to read as follows: 75-
8 52,162. (a) (1) The department of corrections and the Kansas juvenile
9 justice oversight committee shall explore methods of exchanging
10 confidential data between all parts of the juvenile justice system. Such data
11 exchange shall be limited based on the needs of the user accessing the
12 data. Such method of exchanging data shall take into consideration sharing
13 data that is necessary for continuity of treatment and correctional
14 programs, including, but not limited to, health care requirements, mental
15 health care needs and history, substance abuse treatment and history,
16 recommendations for emergency placement options and any other
17 information to assist in providing proper care to the juvenile. The
18 department of corrections is authorized to use grant funds, allocated state
19 funds or any other accessible funding necessary to create such data
20 exchange system. All state and local programs involved in the care of
21 juveniles involved in the juvenile justice system or the child in need of
22 care system shall cooperate in the development and utilization of such
23 system.

24 (2) *On or before July 1, 2022, the department of corrections shall*
25 *develop a system to facilitate the exchanging of confidential data*
26 *described in paragraph (1). The department shall report to the joint*
27 *committee on corrections and juvenile justice oversight, the house of*
28 *representatives standing committee on corrections and juvenile justice, the*
29 *house of representatives standing committee on appropriations, the senate*
30 *standing committee on judiciary and the senate standing committee on*
31 *ways and means on the progress of development on or before the first day*
32 *of the 2021 regular session of the legislature.*

33 (b) The department of corrections shall establish and maintain a
34 statewide searchable database that contains information regarding
35 juveniles who participate in an immediate intervention program. County
36 and district attorneys, judges, community supervision officers and juvenile
37 intake and assessment workers shall have access to the database and shall
38 submit necessary data to such database. The department of corrections
39 shall, in consultation with the office of judicial administration, adopt rules
40 and regulations to carry out the provisions of this subsection.

41 Sec. 6. K.S.A. 75-52,164 is hereby amended to read as follows: 75-
42 52,164. (a) (1) There is hereby established in the state treasury the
43 evidence-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:

5 (A) Juvenile offenders; *and their families*;

6 (B) juveniles experiencing mental health crisis and their families;

7 (C) *children who have been administered a risk and needs*
8 *assessment and have been identified as needing services pursuant to*
9 *section 1, and amendments thereto; and*

10 (D) *grants as provided in subsection (e).*

11 (2) *Evidence-based community programs and practices may be*
12 *administered by community supervision offices, including, but not limited*
13 *to, juvenile intake and assessment, court services, community corrections*
14 *and, juvenile crisis intervention centers, community mental health centers*
15 *and any other community-based service provider offering evidence-based*
16 *community programs.*

17 (3) All expenditures from the evidence-based programs account of
18 the state general fund shall be made in accordance with appropriation acts
19 upon warrants of the director of accounts and reports issued pursuant to
20 vouchers approved by the secretary of corrections or the secretary's
21 designee.

22 (b) At least annually, throughout the year, the secretary of corrections
23 shall determine and certify to the director of accounts and reports the
24 amount in each account of the state general fund of a state agency that has
25 been determined by the secretary to be actual or projected cost savings as a
26 result of cost avoidance resulting from decreased reliance on incarceration
27 in the juvenile correctional facility and placement in youth residential
28 centers. The baseline shall be calculated on the cost of incarceration and
29 placement in fiscal year 2015.

30 (c) Upon receipt of a certification pursuant to subsection (b), the
31 director of accounts and reports shall transfer the amount certified
32 pursuant to subsection (b) from each account of the state general fund of a
33 state agency that has been determined by the secretary of corrections to be
34 actual or projected cost savings to the evidence-based programs account of
35 the state general fund.

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

40 ~~(e) During fiscal years 2017 and 2018, the secretary of corrections~~
41 ~~shall transfer an amount not to exceed \$8,000,000 from appropriated~~
42 ~~department of corrections moneys from the state general fund or any~~
43 ~~available special revenue fund or funds that are budgeted for the purposes~~

1 ~~of facilitating the development and implementation of new community~~
2 ~~placements in conjunction with the reduction in out-of-home placements.~~
3 *The secretary of corrections shall develop and implement a grant program*
4 *with the goal of implementing evidence-based community programs*
5 *described in subsection (a) throughout the state, subject to the availability*
6 *of funding in the evidence-based programs account of the state general*
7 *fund. The secretary shall adopt grant requirements in accordance with this*
8 *section. Any provider of evidence-based community programs for juveniles*
9 *may apply for a grant. The grant program shall give priority to any county*
10 *that demonstrates a low availability of evidence-based community*
11 *programs for juveniles. The secretary shall evaluate the programs that*
12 *received a grant to ensure the program is being delivered as such program*
13 *was designed.*

14 *(f) Expenditures made from the evidence-based programs account of*
15 *the state general fund shall be made promptly and on a rolling basis to*
16 *develop and implement evidence-based community programs as services*
17 *are needed throughout the state.*

18 ~~(f)~~(g) The evidence-based programs account of the state general fund
19 and any other moneys transferred pursuant to this section shall be used for
20 the purposes set forth in this section and for no other governmental
21 purposes. It is the intent of the legislature that the funds and the moneys
22 deposited in this fund shall remain intact and inviolate for the purposes set
23 forth in this section.

24 Sec. 7. K.S.A. 75-52,162 and 75-52,164 and K.S.A. 2019 Supp. 38-
25 2203, 38-2304 and 38-2391 are hereby repealed.

26 Sec. 8. This act shall take effect and be in force from and after its
27 publication in the statute book.