

January 30, 2023

Thomas E. Foster
retired Kansas District Court Judge
Written Testimony in Opposition to HB 2021
House Committee on Corrections and Juvenile Justice

House Committee on Corrections and Juvenile Justice:

To The Honorable Chairman Rep. Stephen Owens
Honorable Vice Chair Rep. Eric Smith
and Members of the Committee

Attention: colette.niehues@house.ks.gov

May it Please Members of the Committee,

I am retired District Court Judge Thomas E. Foster. I was honored to have been on the Kansas Juvenile Justice Review Committee chaired by the Sen Smith and Rep. Ruben. Since my retirement I have remained involved in juvenile justice issues. The stated goal of the Juvenile Justice code goal is to promote public safety, hold juveniles accountable, and improve their ability to live more productively and responsibly in the community. Two sections of HB2021 are not supportive of that goal.

Sec. 5 which proposes raising the maximum detention time for misdemeanors to 90 days is unnecessary and costly for counties. There are few misdemeanors in which 45 days in detention is not an appropriate and adequate accountability for the child's behavior.

HB 2021 Sec 6. b. 4. should be reconsidered. Adding and increasing jail sanctions for technical violations, particularly for the first, second, and third violations are not consistent with the Kansa Juvenile Code and are not consistent with best practices. Currently, juvenile probation officers and juvenile community corrections officers use a graduated sanction tool to hold juvenile probationers accountable for bad behavior. This tool has been developed over a long period of time.

Assessing a 24 hour, 48 hour, or up to 15 day sanction for first, second, or third technical violation such as being late for school or missing school or missing an appointment with a probation officer seems to be a disproportionate and draconian sanction for minor technical violations. I also believe the this language might unintentionally limit the sanction time now available to judges when violations are based upon new law violations. What happens if the first violation is very serious. Is the sanction limited to 24 hours?

This provision would turn common adult mistakes, such as missing an appointment or being late for an appointment, into a jailable offense. This provision would also turn the 'graduated sanction grid' used by supervising officers upside down and add detention as the first sanction used instead using detention as a sanction for escalating behavior. Generally, sanctions start low and are increased with increasing bad behavior and repetitive problems.

If these two changes are enacted counties may need to dramatically increase their budgets for juvenile detention facilities. Not many children can make it through a six or nine month probation without making one mistake. Juvenile detention costs are commonly \$500 per day or higher.

Placing a child into detention even for 24 hours is a significant event and would be considered an adverse childhood experience that are considered life altering are in the ace evaluation. To be bodily searched and go through the incarceration process is traumatic. Many detention centers place a child in isolation for the first 24 hours so you would be subjecting a child to a 24 24 hour isolation for missing school or being late for school. Detention is an environment where a child is more likely to learn more bad behavior and make friends with the wrong people. When we sanction a child to detention we need to have good reason related to public safety to justify the sanction

I generally believe that if a child does not commit any new crime while on probation that is success. To start putting them in detention for one or two technical violations could lead to unintended results.

Thank you for your consideration.

Thomas E Foster