

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

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

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

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

32 (3) has been physically, mentally or emotionally abused or neglected
33 or sexually abused;

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

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

36 (6) is not attending school as required by K.S.A. 72-3421 or 72-3120,

1 and amendments thereto;

2 (7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-
3 8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2022 Supp. 21-6301(a)(14),
4 and amendments thereto, or, except as provided in paragraph (12), does an
5 act which, when committed by a person under 18 years of age, is
6 prohibited by state law, city ordinance or county resolution, but which is
7 not prohibited when done by an adult;

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

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

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

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

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

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

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

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

35 ~~(f)(g)~~ "Civil custody case" includes any case filed under chapter 23 of
36 the Kansas Statutes Annotated, and amendments thereto, the Kansas
37 family law code, article 11 of chapter 38 of the Kansas Statutes Annotated,
38 and amendments thereto, determination of parentage, article 21 of chapter
39 59 of the Kansas Statutes Annotated, and amendments thereto, adoption
40 and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes
41 Annotated, and amendments thereto, guardians and conservators.

42 ~~(g)(h)~~ "Court-appointed special advocate" means a responsible adult
43 other than an attorney guardian ad litem who is appointed by the court to

1 represent the best interests of a child, as provided in K.S.A. 38-2206, and
2 amendments thereto, in a proceeding pursuant to this code.

3 ~~(h)~~(i) "Custody" whether temporary, protective or legal, means the
4 status created by court order or statute that vests in a custodian, whether an
5 individual or an agency, the right to physical possession of the child and
6 the right to determine placement of the child, subject to restrictions placed
7 by the court.

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

12 ~~(j)~~(k) "Educational institution" means all schools at the elementary
13 and secondary levels.

14 ~~(k)~~(l) "Educator" means any administrator, teacher or other
15 professional or paraprofessional employee of an educational institution
16 who has exposure to a pupil specified in K.S.A. 72-6143(a), and
17 amendments thereto.

18 ~~(l)~~(m) "Harm" means physical or psychological injury or damage.

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

24 ~~(n)~~(o) "Jail" means:

25 (1) An adult jail or lockup; or

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

36 ~~(o)~~(p) "Juvenile detention facility" means any secure public or private
37 facility used for the lawful custody of accused or adjudicated juvenile
38 offenders that must not be a jail.

39 ~~(p)~~(q) "Juvenile intake and assessment worker" means a responsible
40 adult authorized to perform intake and assessment services as part of the
41 intake and assessment system established pursuant to K.S.A. 75-7023, and
42 amendments thereto.

43 ~~(q)~~(r) "Kinship care placement" means the placement of a child in the

1 home of an adult with whom the child or the child's parent already has
2 close emotional ties.

3 ~~(s)~~(s) "Law enforcement officer" means any person who by virtue of
4 office or public employment is vested by law with a duty to maintain
5 public order or to make arrests for crimes, whether that duty extends to all
6 crimes or is limited to specific crimes.

7 ~~(t)~~(t) "Multidisciplinary team" means a group of persons, appointed
8 by the court under K.S.A. 38-2228, and amendments thereto, that has
9 knowledge of the circumstances of a child in need of care.

10 ~~(u)~~(u) "Neglect" means acts or omissions by a parent, guardian or
11 person responsible for the care of a child resulting in harm to a child, or
12 presenting a likelihood of harm, and the acts or omissions are not due
13 solely to the lack of financial means of the child's parents or other
14 custodian. Neglect may include, but shall not be limited to:

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

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

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

30 ~~(v)~~(v) "Parent" when used in relation to a child or children, includes a
31 guardian and every person who is by law liable to maintain, care for or
32 support the child.

33 ~~(w)~~(w) "Party" means the state, the petitioner, the child, any parent of
34 the child and an Indian child's tribe intervening pursuant to the Indian
35 child welfare act.

36 ~~(x)~~(x) "Permanency goal" means the outcome of the permanency
37 planning process, which may be reintegration, adoption, appointment of a
38 permanent custodian or another planned permanent living arrangement.

39 ~~(y)~~(y) "Permanent custodian" means a judicially approved permanent
40 guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

41 ~~(z)~~(z) "Physical, mental or emotional abuse" means the infliction of
42 physical, mental or emotional harm or the causing of a deterioration of a
43 child and may include, but shall not be limited to, maltreatment or

1 exploiting a child to the extent that the child's health or emotional well-
2 being is endangered.

3 ~~(z)~~**(aa)** "Placement" means the designation by the individual or
4 agency having custody of where and with whom the child will live.

5 ~~(aa)~~**(bb)** "Qualified residential treatment program" means a program
6 designated by the secretary for children and families as a qualified
7 residential treatment program pursuant to federal law.

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

15 ~~(cc)~~**(dd)** "Relative" means a person related by blood, marriage or
16 adoption.

17 ~~(dd)~~**(ee)** "Runaway" means a child who is willfully and voluntarily
18 absent from the child's home without the consent of the child's parent or
19 other custodian.

20 ~~(ee)~~**(ff)** "Secretary" means the secretary for children and families or
21 the secretary's designee.

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

30 ~~(gg)~~**(hh)** "Sexual abuse" means any contact or interaction with a child
31 in which the child is being used for the sexual stimulation of the
32 perpetrator, the child or another person. Sexual abuse shall include, but is
33 not limited to, allowing, permitting or encouraging a child to:

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

41 ~~(hh)~~**(ii)** "Shelter facility" means any public or private facility or
42 home, other than a juvenile detention facility or staff secure facility, that
43 may be used in accordance with this code for the purpose of providing

1 either temporary placement for children in need of care prior to the
 2 issuance of a dispositional order or longer term care under a dispositional
 3 order.

4 ~~(ii)~~(jj) "Staff secure facility" means a facility described in K.S.A. 65-
 5 535, and amendments thereto: (1) That does not include construction
 6 features designed to physically restrict the movements and activities of
 7 juvenile residents who are placed therein; (2) that may establish reasonable
 8 rules restricting entrance to and egress from the facility; and (3) in which
 9 the movements and activities of individual juvenile residents may, for
 10 treatment purposes, be restricted or subject to control through the use of
 11 intensive staff supervision. No staff secure facility shall be in a city or
 12 county jail.

13 ~~(ii)~~(kk) "Transition plan" means, when used in relation to a youth in
 14 the custody of the secretary, an individualized strategy for the provision of
 15 medical, mental health, education, employment and housing supports as
 16 needed for the adult and, if applicable, for any minor child of the adult, to
 17 live independently and specifically provides for the supports and any
 18 services for which an adult with a disability is eligible including, but not
 19 limited to, funding for home and community based services waivers.

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

24 ~~(ll) "Behavioral health crisis" means behavioral and conduct issues~~
 25 ~~that impact the safety or health of a child, members of the child's~~
 26 ~~household or family or members of the community, including, but not~~
 27 ~~limited to, non-life threatening mental health and substance abuse~~
 28 ~~concerns.~~

29 Sec. 2. K.S.A. 38-2231 is hereby amended to read as follows: 38-
 30 2231. (a) A law enforcement officer or court services officer shall take a
 31 child under 18 years of age into custody when:

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

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

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

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

43 (2) has probable cause to believe that the child is a runaway or a

1 missing person or a verified missing person entry for the child can be
2 found in the national crime information center missing person system;

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

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

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

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

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

25 Sec. 3. K.S.A. 38-2243 is hereby amended to read as follows: 38-
26 2243. (a) Upon notice and hearing, the court may issue an order directing
27 who shall have temporary custody and may modify the order during the
28 pendency of the proceedings as will best serve the child's welfare.

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

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

37 (d) Notice of the temporary custody hearing shall be given at least 24
38 hours prior to the hearing. The court may continue the hearing to afford the
39 24 hours prior notice or, with the consent of the party or interested party,
40 proceed with the hearing at the designated time. If an order of temporary
41 custody is entered and the parent or other person having custody of the
42 child has not been notified of the hearing, did not appear or waive
43 appearance and requests a rehearing, the court shall rehear the matter

1 without unnecessary delay.

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

5 (f) The court may enter an order of temporary custody after
6 determining there is probable cause to believe that the: (1) Child is
7 dangerous to self or to others; (2) child is not likely to be available within
8 the jurisdiction of the court for future proceedings; (3) health or welfare of
9 the child may be endangered without further care; (4) child has been
10 subjected to human trafficking or aggravated human trafficking, as defined
11 by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial
12 sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422,
13 and amendments thereto; (5) child is experiencing a ~~mental~~ *behavioral*
14 health crisis and is in need of treatment; or (6) child committed an act
15 which, if committed by an adult, would constitute a violation of K.S.A.
16 2022 Supp. 21-6419, and amendments thereto.

17 (g) (1) Whenever the court determines the necessity for an order of
18 temporary custody the court may place the child in the temporary custody
19 of:

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

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

25 (C) a youth residential facility;

26 (D) a shelter facility;

27 (E) a staff secure facility, notwithstanding any other provision of law,
28 if the child has been subjected to human trafficking or aggravated human
29 trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments
30 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
31 2022 Supp. 21-6422, and amendments thereto, or the child committed an
32 act which, if committed by an adult, would constitute a violation of K.S.A.
33 2022 Supp. 21-6419, and amendments thereto;

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

37 (G) the secretary, if the child is 15 years of age or younger, or 16 or
38 17 years of age if the child has no identifiable parental or family resources
39 or shows signs of physical, mental, emotional or sexual abuse.

40 (2) If the secretary presents the court with a plan to provide services
41 to a child or family which the court finds will assure the safety of the
42 child, the court may only place the child in the temporary custody of the
43 secretary until the court finds the services are in place. The court shall

1 have the authority to require any person or entity agreeing to participate in
2 the plan to perform as set out in the plan. When the child is placed in the
3 temporary custody of the secretary, the secretary shall have the
4 discretionary authority to place the child with a parent or to make other
5 suitable placement for the child. When the child is placed in the temporary
6 custody of the secretary and the child has been subjected to human
7 trafficking or aggravated human trafficking, as defined by K.S.A. 2022
8 Supp. 21-5426, and amendments thereto, or commercial sexual
9 exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and
10 amendments thereto, or the child committed an act which, if committed by
11 an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and
12 amendments thereto, the secretary shall have the discretionary authority to
13 place the child in a staff secure facility, notwithstanding any other
14 provision of law. When the child is presently alleged, but not yet
15 adjudicated to be a child in need of care solely pursuant to K.S.A. ~~38-~~
16 ~~2202(d)(9)~~**38-2202(e)(9)** or ~~(d)(10)(e)(10)~~, and amendments thereto, the
17 child may be placed in a secure facility, but the total amount of time that
18 the child may be held in such facility under this section and K.S.A. 38-
19 2242, and amendments thereto, shall not exceed 24 hours, excluding
20 Saturdays, Sundays, legal holidays, and days on which the office of the
21 clerk of the court is not accessible. The order of temporary custody shall
22 remain in effect until modified or rescinded by the court or an adjudication
23 order is entered but not exceeding 60 days, unless good cause is shown
24 and stated on the record.

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

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

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

39 (iii) immediate placement of the child is in the best interest of the
40 child; and

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

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

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

8 Sec. 4. K.S.A. 38-2302 is hereby amended to read as follows: 38-
9 2302. As used in this code, unless the context otherwise requires:

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

15 (b) "Commissioner" means the secretary of corrections or the
16 secretary's designee.

17 ~~(b)~~(c) "Community supervision officer" means any officer from court
18 services, community corrections or any other individual authorized to
19 supervise a juvenile on an immediate intervention, probation or
20 conditional release.

21 ~~(c)~~(d) "Conditional release" means release from a term of
22 commitment in a juvenile correctional facility for an aftercare term
23 pursuant to K.S.A. 38-2369, and amendments thereto, under conditions
24 established by the secretary of corrections.

25 ~~(d)~~(e) "Court-appointed special advocate" means a responsible adult,
26 other than an attorney appointed pursuant to K.S.A. 38-2306, and
27 amendments thereto, who is appointed by the court to represent the best
28 interests of a child, as provided in K.S.A. 38-2307, and amendments
29 thereto, in a proceeding pursuant to this code.

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

35 ~~(f)~~(g) "Educational institution" means all schools at the elementary
36 and secondary levels.

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

41 ~~(h)~~(i) "Evidence-based" means practices, policies, procedures and
42 programs demonstrated by research to produce reduction in the likelihood
43 of reoffending.

1 ~~(i)~~(j) "Graduated responses" means a system of community-based
2 sanctions and incentives developed pursuant to K.S.A. 75-7023(h) and
3 K.S.A. 38-2392, and amendments thereto, used to address violations of
4 immediate interventions, terms and conditions of probation and
5 conditional release and to incentivize positive behavior.

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

10 ~~(k)~~(l) "Institution" means the Larned juvenile correctional facility and
11 the Kansas juvenile correctional complex.

12 ~~(l)~~(m) "Investigator" means an employee of the department of
13 corrections assigned by the secretary of corrections with the responsibility
14 for investigations concerning employees at the juvenile correctional
15 facilities and juveniles in the custody of the secretary of corrections at a
16 juvenile correctional facility.

17 ~~(m)~~(n) "Jail" means: (1) An adult jail or lockup; or
18 (2) a facility in the same building as an adult jail or lockup, unless the
19 facility meets all applicable licensure requirements under law and there is:
20 (A) Total separation of the juvenile and adult facility spatial areas such that
21 there could be no haphazard or accidental contact between juvenile and
22 adult residents in the respective facilities; (B) total separation in all
23 juvenile and adult program activities within the facilities, including
24 recreation, education, counseling, health care, dining, sleeping and general
25 living activities; and (C) separate juvenile and adult staff, including
26 management, security staff and direct care staff such as recreational,
27 educational and counseling.

28 ~~(n)~~(o) "Juvenile" means a person to whom one or more of the
29 following applies, the person: (1) Is 10 or more years of age but less than
30 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been
31 adjudicated as a juvenile offender and continues to be subject to the
32 jurisdiction of the court.

33 ~~(o)~~(p) "Juvenile correctional facility" means a facility operated by the
34 secretary of corrections for the commitment of juvenile offenders.

35 ~~(p)~~(q) "Juvenile corrections officer" means a certified employee of
36 the department of corrections working at a juvenile correctional facility
37 assigned by the secretary of corrections with responsibility for maintaining
38 custody, security and control of juveniles in the custody of the secretary of
39 corrections at a juvenile correctional facility.

40 ~~(q)~~(r) "Juvenile detention facility" means a public or private facility
41 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
42 Annotated, and amendments thereto, which is used for the lawful custody
43 of alleged or adjudicated juvenile offenders.

1 ~~(s)~~(s) "Juvenile intake and assessment worker" means a responsible
2 adult trained and authorized to perform intake and assessment services as
3 part of the intake and assessment system established pursuant to K.S.A.
4 75-7023, and amendments thereto.

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

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

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

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

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

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

21 (C) convicted or sentenced as an adult in another state or foreign
22 jurisdiction under substantially similar procedures described in K.S.A. 38-
23 2347, and amendments thereto, or because of attaining the age of majority
24 designated in that state or jurisdiction.

25 ~~(u)~~(u) "Law enforcement officer" means any person who by virtue of
26 that person's office or public employment is vested by law with a duty to
27 maintain public order or to make arrests for crimes, whether that duty
28 extends to all crimes or is limited to specific crimes.

29 ~~(v)~~(v) "Overall case length limit" when used in relation to a juvenile
30 adjudicated a juvenile offender means the maximum jurisdiction of the
31 court following disposition on an individual case. Pursuant to K.S.A. 38-
32 2304, and amendments thereto, the case and the court's jurisdiction shall
33 terminate once the overall case length limit expires and may not be
34 extended.

35 ~~(w)~~(w) "Parent" when used in relation to a juvenile, includes a
36 guardian and every person who is, by law, liable to maintain, care for or
37 support the juvenile.

38 ~~(x)~~(x) "Probation" means a period of community supervision ordered
39 pursuant to K.S.A. 38-2361, and amendments thereto, overseen by either
40 court services or community corrections, but not both.

41 ~~(y)~~(y) "Reasonable and prudent parenting standard" means the
42 standard characterized by careful and sensible parental decisions that
43 maintain the health, safety and best interests of a child while at the same

1 time encouraging the emotional and developmental growth of the child,
2 that a caregiver shall use when determining whether to allow a child in
3 foster care under the responsibility of the state to participate in
4 extracurricular, enrichment, cultural and social activities.

5 ~~(y)~~(z) "Reintegration plan" means a written document prepared in
6 consultation with the child's parent or guardian that:

7 (1) Describes the reintegration goal, which, if achieved, will most
8 likely give the juvenile and the victim of the juvenile a permanent and safe
9 living arrangement;

10 (2) describes the child's level of physical health, mental and
11 emotional health and educational functioning;

12 (3) provides an assessment of the needs of the child and family;

13 (4) describes the services to be provided to the child, the child's
14 family and the child's foster parents, if appropriate;

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

17 (6) includes measurable objectives and time schedules for achieving
18 the plan; and

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

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

24 (B) describes available alternatives;

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

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

29 ~~(z)~~(aa) "Risk and needs assessment" means a standardized instrument
30 administered on juveniles to identify specific risk factors and needs shown
31 to be statistically related to a juvenile's risk of reoffending and, when
32 properly addressed, can reduce a juvenile's risk of reoffending.

33 ~~(aa)~~(bb) "Secretary" means the secretary of corrections or the
34 secretary's designee.

35 ~~(bb)~~(cc) "Technical violation" means an act that violates the terms or
36 conditions imposed as part of a probation disposition pursuant to K.S.A.
37 38-2361, and amendments thereto, and that does not constitute a new
38 juvenile offense or a new child in need of care violation pursuant to K.S.A.
39 ~~38-2202(d)~~ 38-2202(e), and amendments thereto.

40 ~~(cc)~~(dd) "Warrant" means a written order by a judge of the court
41 directed to any law enforcement officer commanding the officer to take
42 into custody the juvenile named or described therein.

43 ~~(dd)~~(ee) "Youth residential facility" means any home, foster home or

1 structure which provides 24-hour-a-day care for juveniles and which is
2 licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of
3 the Kansas Statutes Annotated, and amendments thereto.

4 ~~(ee) "Behavioral health crisis" means behavioral and conduct issues~~
5 ~~that impact the safety or health of a juvenile, members of the juvenile's~~
6 ~~household or family or members of the community, including, but not~~
7 ~~limited to, non-life threatening mental health and substance abuse~~
8 ~~concerns.~~

9 Sec. 5. K.S.A. 38-2330 is hereby amended to read as follows: 38-
10 2330. (a) A law enforcement officer may take a juvenile into custody
11 when:

- 12 (1) Any offense has been or is being committed in the officer's view;
- 13 (2) the officer has a warrant commanding that the juvenile be taken
14 into custody;
- 15 (3) the officer has probable cause to believe that a warrant or order
16 commanding that the juvenile be taken into custody has been issued in this
17 state or in another jurisdiction for an act committed therein;
- 18 (4) the officer has probable cause to believe that the juvenile is
19 committing or has committed an act which, if committed by an adult,
20 would constitute:

- 21 (A) A felony; or
- 22 (B) a misdemeanor and: (i) The juvenile will not be apprehended or
23 evidence of the offense will be irretrievably lost unless the juvenile is
24 immediately taken into custody; or (ii) the juvenile may cause injury to
25 self or others or damage to property or may be injured unless immediately
26 taken into custody;
- 27 (5) the officer has probable cause to believe that the juvenile has
28 violated an order for electronic monitoring as a term of probation; or
- 29 (6) the officer receives a written statement pursuant to subsection (c).
- 30 (b) A court services officer, juvenile community corrections officer or
31 other person authorized to supervise juveniles subject to this code, may
32 take a juvenile into custody when: (1) There is a warrant commanding that
33 the juvenile be taken into custody; or (2) the officer has probable cause to
34 believe that a warrant or order commanding that the juvenile be taken into
35 custody has been issued in this state or in another jurisdiction for an act
36 committed therein.

37 (c) Any court services officer, juvenile community corrections officer
38 or other person authorized to supervise juveniles subject to this code, may
39 request a warrant by giving the court a written statement setting forth that
40 the juvenile, in the judgment of the court services officer, juvenile
41 community corrections officer or other person authorized to supervise
42 juveniles subject to this code:

- 43 (1) (A) Has violated the condition of the juvenile's conditional release

1 from detention or probation, for the third or subsequent time; and

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

4 (2) has absconded from supervision.

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

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

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

14 (B) contact or deliver the juvenile to an intake and assessment worker
15 for completion of the intake and assessment process pursuant to K.S.A.
16 75-7023, and amendments thereto; or

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

22 (3) It shall be the duty of the officer to furnish the county or district
23 attorney and the juvenile intake and assessment worker if the officer has
24 delivered the juvenile to the worker or issued a notice to appear consistent
25 with subsection (g), with all of the information in the officer's possession
26 pertaining to the juvenile, the juvenile's parent or other persons interested
27 in or likely to be interested in the juvenile and all other facts and
28 circumstances which caused the juvenile to be arrested or taken into
29 custody.

30 (e) In the absence of a court order to the contrary, the court or
31 officials designated by the court, the county or district attorney or the law
32 enforcement agency taking a juvenile into custody shall direct the release
33 prior to the time specified by K.S.A. 38-2343(a), and amendments thereto.
34 In addition, pursuant to K.S.A. 75-7023 and K.S.A. 38-2346, and
35 amendments thereto, a juvenile intake and assessment worker shall direct
36 the release of a juvenile prior to a detention hearing after the completion of
37 the intake and assessment process.

38 (f) Whenever a person 18 years of age or more is taken into custody
39 by a law enforcement officer for an alleged offense which was committed
40 prior to the time the person reached the age of 18, the officer shall notify
41 and refer the matter to the court for proceedings pursuant to this code,
42 except that the provisions of this code relating to detention hearings shall
43 not apply to that person. If such person is eligible for detention, and all

1 suitable alternatives to detention have been exhausted, the person shall be
2 detained in jail. Unless the law enforcement officer took the person into
3 custody pursuant to a warrant issued by the court and the warrant specifies
4 the amount of bond or indicates that the person may be released on
5 personal recognizance, the person shall be taken before the court of the
6 county where the alleged act took place or, at the request of the person, the
7 person shall be taken, without delay, before the nearest court. The court
8 shall fix the terms and conditions of an appearance bond upon which the
9 person may be released from custody. The provisions of article 28 of
10 chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and
11 amendments thereto, relating to appearance bonds and review of
12 conditions and release shall be applicable to appearance bonds provided
13 for in this section.

14 (g) (1) Whenever a law enforcement officer detains any juvenile and
15 such juvenile is not immediately taken to juvenile intake and assessment
16 services, the officer may serve upon such juvenile a written notice to
17 appear. Such notice to appear shall contain the name and address of the
18 juvenile detained, the crime charged and the location and phone number of
19 the juvenile intake and assessment services office where the juvenile will
20 need to appear with a parent or guardian.

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

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

31 (4) The law enforcement officer shall cause to be filed, without
32 unnecessary delay, a complaint with juvenile intake and assessment
33 services in which a juvenile released pursuant to paragraph (3) is given
34 notice to appear, charging the crime stated in such notice. A copy shall also
35 be provided to the district or county attorney. If the juvenile released fails
36 to contact juvenile intake and assessment services as required in the notice
37 to appear, juvenile intake and assessment services shall notify the district
38 or county attorney.

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

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

43 (a) A juvenile crisis intervention center is a facility that provides short-

1 term observation, assessment, treatment and case planning, and referral for
2 any juvenile who is experiencing a ~~mental~~ *behavioral* health crisis and is
3 likely to cause harm to self or others. Such centers shall:

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

8 (2) not include construction features designed to physically restrict
9 the movements and activities of juveniles, but shall have a design,
10 structure, interior and exterior environment, and furnishings to promote a
11 safe, comfortable and therapeutic environment for juveniles admitted to
12 the center;

13 (3) implement written policies and procedures that include the use of
14 a combination of supervision, inspection and accountability to promote
15 safe and orderly operations; and

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

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

20 (c) A juvenile crisis intervention center may be on the same premises
21 as that of another licensed facility. If the juvenile crisis intervention center
22 is on the same premises as that of another licensed facility, the living unit
23 of the juvenile crisis intervention center shall be maintained in a separate,
24 self-contained unit. No juvenile crisis intervention center shall be in a city
25 or county jail or a juvenile detention facility.

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

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

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

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

35 (2) A juvenile may be admitted to a juvenile crisis intervention center
36 for not more than 30 days. A parent with legal custody or legal guardian of
37 a juvenile placed in a juvenile crisis intervention center may remove such
38 juvenile from the center at any time. If the removal may cause the juvenile
39 to become a child in need of care pursuant to K.S.A. ~~38-2202(d)~~ **38-**
40 **2202(e)**, and amendments thereto, the head of a juvenile crisis intervention
41 center may report such concerns to the department for children and
42 families or law enforcement or may request the county or district attorney
43 to initiate proceedings pursuant to the revised Kansas code for care of

1 children. If the head of a juvenile crisis intervention center determines the
2 most appropriate action is to request the county or district attorney to
3 initiate proceedings pursuant to the revised Kansas code for care of
4 children, the head of such center shall make such request and shall keep
5 such juvenile in the center for an additional 24-hour period to initiate the
6 appropriate proceedings.

7 (3) When a juvenile is released from a juvenile crisis intervention
8 center, the managed care organization, if the juvenile is a medicaid
9 recipient, and the community mental health center serving the area where
10 the juvenile is being discharged shall be involved with discharge planning.
11 Within seven days prior to the discharge of a juvenile, the head of the
12 juvenile crisis intervention center shall give written notice of the date and
13 time of the discharge to the patient, the managed care organization, if the
14 juvenile is a medicaid recipient, and the community mental health center
15 serving the area where the juvenile is being discharged, and the patient's
16 parent, custodian or legal guardian.

17 (e) (1) Upon admission to a juvenile crisis intervention center, and if
18 the juvenile is a medicaid recipient, the managed care organization shall
19 approve services as recommended by the head of the juvenile crisis
20 intervention center. Within 14 days after admission, the head of the
21 juvenile crisis intervention center shall develop a plan of treatment for the
22 juvenile in collaboration with the managed care organization.

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

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

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

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

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

1 (g) The secretary for children and families shall annually report
2 information on outcomes of juveniles admitted into juvenile crisis
3 intervention centers to the joint committee on corrections and juvenile
4 justice oversight, the corrections and juvenile justice committee of the
5 house of representatives and the judiciary committee of the senate. Such
6 report shall include:

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

9 (2) services provided to juveniles admitted;

10 (3) needs of juveniles admitted determined by evidence-based
11 assessment; and

12 (4) success and recidivism rates, including information on the
13 reduction of involvement of the child welfare system and juvenile justice
14 system with the juvenile.

15 (h) The secretary of corrections may enter into memorandums of
16 agreement with other cabinet agencies to provide funding, not to exceed
17 \$2,000,000 annually, from the evidence-based programs account of the
18 state general fund or other available appropriations for juvenile crisis
19 intervention services.

20 (i) For the purposes of this section:

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

26 (2) "head of a juvenile crisis intervention center" means the
27 administrative director of a juvenile crisis intervention center or such
28 person's designee;

29 ~~(2)~~(3) "juvenile" means a person who is less than 18 years of age;

30 ~~(3)~~(4) "likely to cause harm to self or others" means that a juvenile,
31 by reason of the juvenile's *behavioral health condition*, mental disorder or
32 mental condition is likely, in the reasonably foreseeable future, to cause
33 substantial physical injury or physical abuse to self or others or substantial
34 damage to another's property, as evidenced by behavior threatening,
35 attempting or causing such injury, abuse or damage;

36 ~~(4)~~(5) "treatment" means any service intended to promote the mental
37 health of the patient and rendered by a qualified professional, licensed or
38 certified by the state to provide such service as an independent practitioner
39 or under the supervision of such practitioner; and

40 ~~(5)~~(6) "qualified mental health professional" means a physician or
41 psychologist who is employed by a participating mental health center or
42 who is providing services as a physician or psychologist under a contract
43 with a participating mental health center, a licensed masters level

1 psychologist, a licensed clinical psychotherapist, a licensed marriage and
2 family therapist, a licensed clinical marriage and family therapist, a
3 licensed professional counselor, a licensed clinical professional counselor,
4 a licensed specialist social worker or a licensed master social worker or a
5 registered nurse who has a specialty in psychiatric nursing, who is
6 employed by a participating mental health center and who is acting under
7 the direction of a physician or psychologist who is employed by, or under
8 contract with, a participating mental health center.

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

11 Sec. 7. K.S.A. 75-52,164 is hereby amended to read as follows: 75-

12 52,164. (a) There is hereby established in the state treasury the evidence-
13 based programs account of the state general fund, which shall be
14 administered by the department of corrections. All expenditures from the
15 evidence-based programs account of the state general fund shall be for the
16 development and implementation of evidence-based community programs
17 and practices for juvenile offenders, juveniles experiencing ~~mental~~
18 *behavioral* health crisis and their families by community supervision
19 offices, including, but not limited to, juvenile intake and assessment, court
20 services, community corrections and juvenile crisis intervention centers.
21 All expenditures from the evidence-based programs account of the state
22 general fund shall be made in accordance with appropriation acts upon
23 warrants of the director of accounts and reports issued pursuant to
24 vouchers approved by the secretary of corrections or the secretary's
25 designee.

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

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

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

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

7 (f) The evidence-based programs account of the state general fund
8 and any other moneys transferred pursuant to this section shall be used for
9 the purposes set forth in this section and for no other governmental
10 purposes. It is the intent of the legislature that the funds and the moneys
11 deposited in this fund shall remain intact and inviolate for the purposes set
12 forth in this section.

13 Sec. 8. K.S.A. 38-2202, 38-2231, 38-2243, 38-2302, 38-2330, 65-536
14 and 75-52,164 are hereby repealed.

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