



State of Kansas

**Office of Judicial Administration**

**Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507**

**(785) 296-2256**

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House Committee on Corrections and Juvenile Justice  
Neutral Testimony on and Proposed Amendment to 2018 House Bill 2456

Amy Raymond  
Office of Judicial Administration

Good afternoon Chairman Jennings and Committee Members. My name is Amy Raymond and I am the Director of Trial Court Programs for the Office of Judicial Administration (OJA). I am here this afternoon to offer neutral testimony on 2018 House Bill 2456 (HB 2456).

Upon review of HB 2456, OJA requests an amendment to clarify the calculation of probation term limits and overall case length limits under K.S.A. 38-2391. HB 2456 proposes modification of K.S.A. 38-2391(i) to state "[t]he probation term limits and overall case length limits provided in this section shall begin to run *upon entry of the dispositional order* in the juvenile offender's case." [Emphasis added.] OJA believes the emphasized language could be interpreted to mean the limits do not begin to run until the dispositional order is filed. The filing of these orders varies from court to court and case to case; use of that phrase may result in considerable variability in the calculation of case length and probation term limits. OJA proposes the language be modified to read: "[t]he probation term limits and overall case length limits provided in this section shall begin to run *upon disposition*" as shown in the attached amendment. Using the term "disposition" will reduce the amount of variability that may occur in calculating the case length and probation term limits due to fluctuations in the timing of filing the dispositional order. It would also continue use of a phrase ("upon disposition") that is already codified in this statute and has been applied by courts for the past year.

Thank you for the opportunity to offer this amendment to the committee. I am happy to stand for questions.

Attachment

## HOUSE BILL No. 2456

By Joint Committee on Corrections and Juvenile Justice Oversight

1-10

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1 AN ACT concerning children and minors; relating to the revised Kansas  
2 juvenile justice code; overall case length limits; absconders; amending  
3 K.S.A. 2017 Supp. 38-2391 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 38-2391 is hereby amended to read as  
7 follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to  
8 K.S.A. 2017 Supp. 38-2356, and amendments thereto, modification of  
9 sentence pursuant to K.S.A. 2017 Supp. 38-2367, and amendments thereto,  
10 or violation of a condition of sentence pursuant to K.S.A. 2017 Supp. 38-  
11 2368, and amendments thereto, the court may impose one or more of the  
12 sentencing alternatives under K.S.A. 2017 Supp. 38-2361, and  
13 amendments thereto, for a period of time pursuant to this section and  
14 K.S.A. 2017 Supp. 38-2369, and amendments thereto. The period of time  
15 ordered by the court shall not exceed the overall case length limit.

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

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

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

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

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

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

32 (e) When the juvenile is adjudicated for multiple cases  
33 simultaneously, the court shall run those cases concurrently.

34 (f) Upon expiration of the overall case length limit as defined in  
35 subsection (b), the court's jurisdiction terminates and shall not be  
36 extended.

1 (g) (1) For the purposes of placing juvenile offenders on probation  
2 pursuant to K.S.A. 2017 Supp. 38-2361, and amendments thereto, the  
3 court shall establish a specific term of probation as specified in this  
4 subsection based on the most serious adjudicated count in combination  
5 with the results of a risk and needs assessment, as follows, except that the  
6 term of probation shall not exceed the overall case length limit:

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

10 (B) high-risk offenders adjudicated for a misdemeanor and moderate-  
11 risk offenders adjudicated for a felony may be placed on probation for a  
12 term up to nine months; *and*

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

15 (2) The court may extend the term of probation if a juvenile needs  
16 time to complete an evidence-based program as determined to be  
17 necessary based on the results of a validated risk and needs assessment.  
18 The court may also extend the term of probation for good cause shown for  
19 one month for low-risk offenders, three months for moderate-risk  
20 offenders and six months for high-risk offenders. Prior to extension of the  
21 initial probationary term, the court shall find and enter into the written  
22 record the criteria permitting extension of probation. Extensions of  
23 probation shall only be granted incrementally and shall not exceed the  
24 overall case length limit. When the court extends the term of probation for  
25 a juvenile offender, the court services officer or community correctional  
26 services officer responsible for monitoring such juvenile offender shall  
27 record the reason given for extending probation. Court services officers  
28 shall report such records to the office of judicial administration, and  
29 community correctional services officers shall report such records to the  
30 department of corrections. The office of judicial administration and the  
31 department of corrections shall report such recorded data to the Kansas  
32 juvenile justice oversight committee on a quarterly basis.

33 (3) The probation term limits do not apply to those offenders  
34 adjudicated for an offense which, if committed by an adult, would  
35 constitute an off-grid crime, rape as defined in K.S.A. 2017 Supp. 21-  
36 5503(a)(1), and amendments thereto, aggravated criminal sodomy as  
37 defined in K.S.A. 2017 Supp. 21-5504(b)(3), and amendments thereto, or  
38 murder in the second degree as defined in K.S.A. 2017 Supp. 21-5403, and  
39 amendments thereto. Such offenders may be placed on probation for a  
40 term consistent with the overall case length limit.

41 (4) The probation term limits and overall case length limits provided  
42 in this section shall be tolled during any time that the offender has  
43 absconded from supervision while on probation, *and the time on such*

1 *limits shall not start to run again until the offender is located and brought*  
2 *back to the jurisdiction.*

3 (h) For the purpose of placing juvenile offenders in detention  
4 pursuant to K.S.A. 2017 Supp. 38-2361 and 38-2369, and amendments  
5 thereto, the court shall establish a specific term of detention. The term of  
6 detention shall not exceed the overall case length limit or the cumulative  
7 detention limit. Cumulative detention use shall be limited to a maximum  
8 of 45 days over the course of the juvenile offender's case, except that there  
9 shall be no limit on cumulative detention for juvenile offenders  
10 adjudicated for a felony which, if committed by an adult, would constitute  
11 an off-grid felony or a nondrug severity level 1 through 4 person felony.

12 (i) ~~The provisions of this section shall apply upon disposition or 15-~~  
13 ~~days after adjudication, whichever is sooner probation term limits and~~  
14 ~~overall case length limits provided in this section shall begin to run upon~~  
15 ~~entry of the dispositional order in the juvenile offender's case.~~

16 (j) This section shall be part of and supplemental to the revised  
17 Kansas juvenile justice code.

18 Sec. 2. K.S.A. 2017 Supp. 38-2391 is hereby repealed.

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

disposition