

Juvenile Justice—Absconding from Supervision; Immediate Intervention; Sentencing and Placement; Oversight Committee; Required Findings Upon Removal; Fund Provisions; House Sub. for SB 42

House Sub. for SB 42 creates and amends law related to the Kansas juvenile justice system and the changes made to the system by 2016 SB 367, as follows.

[*Note:* House Sub. for SB 42 amends several statutory provisions that, pursuant to amendments made or new statutes created by 2016 SB 367, have not yet taken effect. Such amendments to future versions of existing statutes or to new statutes that have not yet taken effect are noted in this summary.]

Absconding from Supervision

The bill amends the Revised Kansas Juvenile Justice Code (Juvenile Code) statute requiring community-based graduated responses for technical violations of probation to state that absconding from supervision shall not be considered a technical violation of probation and to allow a court to issue a warrant after reasonable efforts to locate a juvenile who has absconded are unsuccessful. The statute governing overall case length limits (effective July 1, 2017) is amended to provide that probation term limits and overall case length limits shall be tolled during any time that a juvenile has absconded from supervision while on probation.

The statute governing failure to obey conditions of conditional release (version effective July 1, 2017) is amended to add absconding from supervision as an event allowing the supervising officer to file a report with the court describing the alleged violation and the juvenile's history of violations. (Continuing law then allows the court, following notice and hearing, to find a violation and modify or impose additional conditions of release.)

The statute governing when a juvenile may be taken into custody is amended to add absconding from supervision as an event allowing a supervising officer to request a warrant, and the statute governing issuance of warrants (version effective July 1, 2017) is amended to allow a court to issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe the juvenile has absconded from supervision. The statute governing violation of conditions of probation or placement (version effective July 1, 2017) is amended to add absconding from supervision to the findings enabling a court to extend or modify the terms of probation or placement or enter another sentence.

Immediate Intervention Programs

The bill amends the statute regarding confidential data exchange for the juvenile justice system to require the Kansas Department of Corrections (KDOC) to establish and maintain a statewide searchable database containing information regarding juveniles who participate in an immediate intervention program. County and district attorneys, judges, community supervision officers, and juvenile intake and assessment workers shall have access to the database and are required to submit necessary data to the database. KDOC is required to, in consultation with the Office of Judicial Administration (OJA), adopt rules and regulations to implement the database.

The statute governing immediate intervention programs is amended to exclude any juvenile charged with a sex offense from a provision requiring the opportunity for participation in an immediate intervention program be offered to juveniles charged with a misdemeanor. The bill also specifies that participation in an immediate intervention program does not have to be offered to a juvenile who has participated in such a program for a previous misdemeanor or to a juvenile who was originally charged with a felony but had the charge amended to a misdemeanor as a result of a plea agreement. The bill clarifies that nothing in this statute requires a juvenile to participate in an immediate intervention program when the county or district attorney has declined to continue with prosecution of an alleged offense.

Sentencing and Placement

The bill amends the Juvenile Code statutes governing sentencing alternatives (version effective July 1, 2017) and the placement matrix (version effective July 1, 2017) to provide that, upon a finding by the trier of fact during adjudication that a firearm was used in the commission of a felony offense by the juvenile, the judge may commit the juvenile directly to the custody of the Secretary of Corrections for placement in a juvenile correctional facility (JCF) or a youth residential facility for a term of 6 to 18 months, regardless of the risk level of the juvenile. Additionally, the court may impose a period of conditional release of up to six months, subject to graduated responses. The Secretary of Corrections or designee is required to notify the court of the juvenile's anticipated release date 21 days prior to such date. (Under the sentencing alternatives and placement matrix enacted in 2016 SB 367, placement in a JCF could be made only when the judge finds and enters into the written record that the juvenile poses a significant risk of harm to another or damage to property and the juvenile has either been adjudicated for high-level felonies or has certain prior offenses and is assessed as high-risk on a risk and needs assessment.)

The bill amends the sentencing alternatives statute (version effective July 1, 2017) to remove a three-month limit on short-term alternative placement allowed when a juvenile is adjudicated of certain sex offenses and certain other conditions are met.

The bill amends the placement matrix statute (version effective July 1, 2017) to consolidate the categories of serious offender III and serious offender IV, which carry the same risk-level requirements and JCF commitment terms, into a single serious offender III category.

The bill amends the Juvenile Code statute governing jurisdiction to remove a provision requiring the Secretary for Children and Families to address issues of abuse and neglect by parents and to prepare parents for the child's return home in cases in which a sentencing court orders the continued placement of the juvenile as a child in need of care.

Timing of Overall Case, Probation, and Detention Length Limits

The bill establishes that the provisions of the Juvenile Code statute governing overall case, probation, and detention length limits (effective July 1, 2017) apply upon disposition or 15 days after adjudication, whichever is sooner.

Juvenile Justice Oversight Committee

The bill amends the statute establishing the Kansas Juvenile Justice Oversight Committee (Oversight Committee) to add 2 members to the Oversight Committee, bringing its total membership to 21. The members added are one youth member of the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention appointed by the chairperson of that group and one director of a juvenile detention facility appointed by the Attorney General. The bill also provides two additional duties for the Oversight Committee: 1) study and create a plan to address the disparate treatment of and availability of resources for juveniles with mental health needs in the juvenile justice system; and 2) review portions of juvenile justice reform that require KDOC and OJA to cooperate and make recommendations when there is no consensus between the two agencies.

Required Findings Upon Removal

The bill creates new law requiring, when a juvenile is removed from the home for the first time pursuant to the Juvenile Code, the judge to consider and make, if appropriate, the following findings: the juvenile is likely to sustain harm if not immediately removed from the home, allowing the juvenile to remain in the home is contrary to the welfare of the juvenile, or immediate placement of the juvenile is in the juvenile's best interest. The bill also requires the judge to find reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or an emergency exists that threatens the safety of the juvenile.

Fund Provisions

The bill amends the statute creating the Kansas Juvenile Justice Improvement Fund to replace references to the Fund with references to the "Evidence-Based Program Account of the State General Fund." A provision requiring the Secretary of Corrections to determine and certify cost savings "annually, on or before June 30" is amended to require such determination and certification "at least annually, throughout the year." A provision requiring transfer of the certified amount by the Director of Accounts and Reports "annually, on July 1 or as soon thereafter as moneys are available" is amended to require such transfer "upon receipt of a certification pursuant to" the certification provision.

The statute authorizing percentage reductions by the Governor is amended to update a provision exempting the Fund from the statute's provisions to refer to the "Evidence-Based Programs Appropriation of the State General Fund" instead of the "Juvenile Justice Improvement Fund."

Immunity for Earned Discharge Calculations

The bill amends law related to earned discharge for juvenile probationers. Specifically, the bill states that the State of Kansas, the Secretary of Corrections, the Secretary's agents or employees, the OJA, and court services officers shall not be liable for damages caused by any negligence, wrongful act, or omission in making the earned discharge credit calculations.

Technical Amendments

The bill makes numerous technical amendments updating statutory references, ensuring consistent phrasing, and removing an effective date that is made redundant by the bill.