

HOUSE BILL No. 2200

By Committee on Corrections and Juvenile Justice

2-2

Proposed Amendments to HB 2200 - probation violations
House Corrections and Juvenile Justice Committee
Prepared by the Office of Revisor of Statutes
February 8, 2022

1 AN ACT concerning children and minors; relating to risk and needs
2 assessment for certain children in need of care; allowing for overall
3 case length limit extensions for certain juvenile offenders; requiring the
4 department of corrections to create juvenile justice database systems;
5 increasing use of evidence-based programs account money; amending
6 K.S.A. 75-52,162 and 75-52,164 and K.S.A. 2020 Supp. 38-2203, 38-
7 2304 and 38-2391 and repealing the existing sections.

authorizing detention sanctions for probation violations;

,

and 38-2392

8
9 *Be it enacted by the Legislature of the State of Kansas:*
10 New Section 1. (a) On or before October 1, 2021, 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. 2020 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. 2020 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 2020 Supp. 38-2234, and amendments thereto; ex parte custody orders,
33 K.S.A. 2020 Supp. 38-2242, and amendments thereto; temporary custody
34 hearing, K.S.A. 2020 Supp. 38-2243, and amendments thereto;
35 adjudication, K.S.A. 2020 Supp. 38-2247, and amendments thereto;
36 burden of proof, K.S.A. 2020 Supp. 38-2250, and amendments thereto;

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 ~~(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. 2020 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.

Insert section 7 - attached
 K.S.A. 38-2392 is hereby amended to read as follows:

'

and 38-2392

Renumber sections

Sec. 7. K.S.A. 38-2392 is hereby amended to read as follows: 38-2392. (a) The department of corrections shall, in consultation with the supreme court, adopt rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical violations of probation, violations of conditional release and violations of a condition of sentence by juveniles. Such graduated responses shall be utilized by community supervision officers to provide a continuum of community-based responses. These responses shall include sanctions that are swift and certain to address violations based on the severity of the violation as well as incentives that encourage positive behaviors. Such responses shall take into account the juvenile's risks and needs.

(b) (1) Except as provided in paragraph (4), when a juvenile is placed on probation pursuant to K.S.A. 2021 Supp. 38-2361, and amendments thereto, community supervision officers shall utilize graduated responses, targeted to the juvenile's risks and needs based on the results of a risk and needs assessment to address technical violations. A technical violation shall only be considered by the court for revocation if: ~~(1) (A)~~ It is a third or subsequent technical violation; ~~(2) (B)~~ prior failed responses are documented in the juvenile's case plan; and ~~(3) (C)~~ the community supervision officer has determined and documented that graduated responses to the violation will not suffice.

(2) Unless a juvenile poses a significant risk of physical harm to another or damage to property, community supervision officers shall issue a summons rather than request a warrant on a third or subsequent technical violation subject to review by the court.

(3) Absconding from supervision shall not be considered a technical violation of probation and, after reasonable efforts to locate a juvenile that has absconded are unsuccessful, the court may issue a warrant for the juvenile pursuant to K.S.A. 2021 Supp. 38-2342, and amendments thereto.

(4) When a juvenile is placed on probation pursuant to K.S.A. 38-2361, and amendments thereto, a judge may commit a juvenile to detention for a violation of probation, including a technical violation and for contempt of court. A juvenile may be committed to detention for a period not to exceed:

(A) 24 hours for a first violation;

(B) 48 hours for a second violation; and

(C) 15 days for a third or subsequent violation.

(c) When a juvenile is placed on probation pursuant to K.S.A. 2021 Supp. 38-2361, and amendments thereto, the community supervision officer responsible for oversight of the juvenile shall develop a case plan in consultation with the juvenile and the juvenile's family. The department for children and families and local board of education may participate in the development of the case plan when appropriate.

(1) Such case plan shall incorporate the results of the risk and needs assessment, referrals to programs, documentation on violations and graduated responses and shall clearly define the role of each person or agency working with the juvenile.

(2) If the juvenile is later committed to the custody of the secretary, the case plan shall be shared with the juvenile correctional facility.

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