Session of 2025

SENATE BILL No. 110

By Committee on Judiciary

1-29

AN ACT concerning the revised Kansas juvenile justice code; prohibiting the use of restraints during hearings; authorizing exceptions if the court makes certain findings on the record; defining hearing under the code; amending K.S.A. 38-2353 and K.S.A. 2024 Supp. 38-2302 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Except as provided in subsection (b), restraints shall not be used on a juvenile during a hearing and shall be removed prior to the juvenile's appearance before the court.

(b) (1) The court, on its own motion or upon the recommendation of an officer of the court or the county or district attorney, may authorize the use of restraints on a juvenile during a hearing if the court makes a finding on the record that such restraints are the least restrictive means available and are necessary for any of the following reasons:

(A) To prevent physical harm to the juvenile or another person during the hearing;

(B) there is a well-founded belief that the juvenile is a substantial flight risk; or

(C) the juvenile has a recent history of disruptive behavior that has placed others at risk of substantial physical harm.

(2) If an officer of the court or the county or district attorney recommends the use of restraints on a juvenile, such recommendation shall be made part of the record.

(3) If the court orders the use of restraints on a juvenile, the court shall:

(A) Make written findings of fact in support of such order; and

(B) order the use of the least restrictive restraints necessary and allow the juvenile sufficient movement of the hands to be able to read and handle documents and writings necessary to the hearing.

(c) (1) The use of any restraints necessary for purposes of security and courtroom decorum shall properly account for the care, protection and positive mental and physical development of the juvenile.

(2) A juvenile shall not be restrained to a wall, the floor, another juvenile or furniture during a hearing under any circumstances.

(d) This section shall be a part of and supplemental to the revised

Kansas juvenile justice code.

Sec. 2. K.S.A. 2024 Supp. 38-2302 is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) "Commissioner" means the secretary of corrections or the secretary's designee.

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

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

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

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

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

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

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

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

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

(k) "Institution" means the Larned juvenile correctional facility and

the Kansas juvenile correctional complex.

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

(m) "Jail" means:

(1) An adult jail or lockup; or

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

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

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

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

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

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

(s) "Juvenile offender" means a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-5102, and amendments thereto, or who violates the provisions of K.S.A. *21-6301(a)(14),* 41-727~~,~~ *or* 74-8810(j) ~~or 21-~~

~~6301(a)(14)~~, and amendments thereto, but does not include:

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

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

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

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

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

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

(t) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

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

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

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

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

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

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

(2) describes the child's level of physical health, mental and

emotional health and educational functioning;

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

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

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

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

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

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

(B) describes available alternatives;

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

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

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

(aa) "Secretary" means the secretary of corrections or the secretary's designee.

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

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

(dd) "Youth residential facility" means any home, foster home or structure ~~which~~ *that* provides 24-hour-a-day care for juveniles and ~~which~~ is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

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

(ff) "Hearing" means any court proceeding held under this code, including, but not limited to, detention, first appearance, adjudicatory,

dispositional and sentencing hearings.

(gg) "Restraints" means handcuffs, leg shackles, leg irons, belly belts, belly chains or other restraint devices used to restrict a juvenile's free movement of limbs or appendages, including, but not limited to, those made of cloth and leather.

Sec. 3. K.S.A. 38-2353 is hereby amended to read as follows: 38-2353. (a) All hearings shall be open to the public, unless the judge determines that opening the hearing to the public is not in the best interests of the victim or of any juvenile who at the time of the alleged offense was less than 16 years of age.

(b) If the court determines that opening the court proceedings to the public is not in the best interest of the juvenile, the court may exclude all persons except the juvenile, the juvenile's parents, attorneys for parties, officers of the court, the witness testifying and the victim, as defined in ~~subsection (b) of~~ K.S.A. 74-7333*(b)*, and amendments thereto, or such members of the victim's family, as defined in ~~subsection (c)(2) of~~ K.S.A. 74-7335*(c)(2)*, and amendments thereto, as the court deems appropriate. Upon agreement of all parties, the court shall allow other persons to attend the hearing unless the court finds the presence of the persons would be disruptive to the proceedings.

~~(c) As used in this section, "hearings" shall include detention, first appearance, adjudicatory, sentencing and all other hearings held under this code. Nothing in this section shall limit the judge's authority to sequester witnesses.~~

Sec. 4. K.S.A. 38-2353 and K.S.A. 2024 Supp. 38-2302 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.