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Written Testimony in Opposition to HB 2329
House Committee on Corrections and Juvenile Justice

Chair Lewis, Ranking Member Schlingensiepen, and Members of the House Committee on Corrections and Juvenile Justice,

Thank you for the opportunity to provide this testimony. I am writing in opposition of House Bill 2329, which would provide for increased placement of juvenile offenders in non-foster home beds in youth residential facilities, and require the secretary of corrections to pay for the costs associated with such placements and authorizing the secretary to make expenditures from the evidence-based programs account of the state general fund moneys to contract for such beds in youth residential facilities.

Kansas Appleseed has a long history of unwavering commitment to advocating for the rights and well-being of children, including ending punitive youth justice practices in the state. Despite the revised youth justice code, there are still parts of the youth justice system that need to be addressed and improved; however, HB 2329 is not an effective avenue to enact positive change to this system. In fact, it will do the opposite by taking children away from their communities and families and putting them into secure placements, while also stripping funds away from proven programs that help reduce recidivism among youth offenders.

The revised Kansas juvenile justice code establishes that the primary goals for the code include promoting public safety and improving the ability of youth to live more productively and responsibly in the community.[1] Reinstatement of non-foster bed residential placements for youth in the justice system is counterproductive to this goal. At the time of the revised juvenile justice code, the state increasingly relied on taking children out of their homes and communities and placing them in prisons and other facilities. Those practices led to the state having the 6th highest youth detainment rate in the country.[2] This approach was simply not working to achieve any sort of meaningful outcomes for youth and their families. Research found:

- The punitive and removal from homes model of youth justice was **ineffective and counterproductive**. A 2014 Kansas Department of Corrections found that 54% of youth in facilities were not successfully discharged. A 2015 Council of State Governments study also found that 42% of Kansas youth that had been incarcerated were incarcerated again within three years of release. Studies repeatedly found that incarcerating or placing youth in other facility placements only increased the risk that the youth would commit an offense in the future. Further, 80% of these children were incarcerated despite low to moderate risk offenses and behaviors. Yet, as a result of the

[1] K.S.A. 38-2301(a).
[2] Office of Juvenile Justice and Delinquency Prevention “Statistical Briefing Book” 2015.

reliance of the courts on sending kids to out of home placements, they now risked a lifetime in a cycle of incarceration and repeated offenses.[3] To address these issues the revised youth justice code created expectations that are meant to reserve incarceration and secure facility placement only for the highest-risk youth.

- The **ineffectiveness** of the system was not only rooted in its reliance on taking kids away from their families and locking them away, but also for the length of time children were locked up. Research shows that incarceration longer than three months does nothing to reduce the risk of recidivism. Yet, at the time, the average child in Kansas out of home facilities stayed for over a year, increasing their risks of recidivism despite diminishing returns on outcomes.[4] The revised youth justice code requires limits be set for case and probation length limits for misdemeanors and other low-level offenses.
- The punitive system also was **inconsistent**, inflicting more harm and risks on vulnerable populations of children. A 2015 study found incarceration rates and other youth case outcomes varied widely across the state, meaning justice had a deterministic relationship to geography. Further, a disproportionately large number of youth of color were punished and placed in out of home placements under the pre-reform Kansas youth justice system.[5]
- This system was fiscally **unsustainable**. Kansas' high reliance on out of home placements and subsequently high recidivism rates needed large amounts of funding that took money away from prevention and other evidenced-based programs. At the time more than two-thirds of the state's youth justice budget was spent on youth prisons and other out-of-home placements. Place a child in an out of home setting costs significantly more money than community-based solutions. In 2015 it cost more than $240 per day per youth housed away from their community. Meanwhile, at the time, it cost $16 per day per youth for the state to provide community-based solutions.[6] If we rely on the funds meant to support evidence- and community-based programs, the state will quickly spend that money down leaving **effective** interventions scrambling to continue serving justice-involved youth in Kansas if the issue is left unaddressed. This is in direct opposition to the revised youth justice code which requires funding evidence-based community programs.

Aside from being an ineffective intervention meant to bridge the gap between low level offenders and those being incarcerated in correctional facilities, these settings also presented many other issues. In 2020, Kansas had 12 of these facilities or group homes that housed 303 children.

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[3] Kansas Department of Corrections "Cost Study of Youth Residential Centers for Juvenile Offenders – Pursuant to Senate Substitute for House Bill 2588" January 2015; Council of State Governments "Reducing Recidivism for Youth in the Juvenile Services Division of the Kansas Department of Corrections: Analyses and Recommendations" March 2015; US Department of Justice "Kansas State DMC Assessment" 2013; National Research Council "Reforming Juvenile Justice: A Developmental Approach" 2013; University of Pittsburgh "Pathways to desistance: A study of serious adolescent offenders as they transition to adulthood and out of crime; Estimating a Dose-Response Relationship between Length of Stay and Future Recidivism in Serious Juvenile Offenders" 2009.

[4] Pew Charitable Trusts, Presentation to Kansas inter-branch Juvenile Justice Workgroup, August 2015; Council of State Governments "Reducing Recidivism for Youth in the Juvenile Services Division of the Kansas Department of Corrections: Analyses and Recommendations" March 2015.

[5] Pew Charitable Trusts, Presentations to Kansas inter-branch Juvenile Justice Workgroup, 2015.

[6] Kansas Division of the Budget "FY 2016 Comparison Report" Updated September 2015; Kansas Department of Corrections "Annual Report" 2013; Washington State Institute for Public Policy "Benefits and Costs of Prevention and Early Intervention Programs for Youth" 2004; Colorado Department of Public Safety "What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs: A Compendium of Evidence-Based Options for Preventing New and Persistent Criminal Behavior" 2008; Washington State Institute for Public Policy "Benefits and Costs of Prevention and Early Intervention Programs for Youth" 2004.

Although these are not prisons, they are secure, and children are locked in their rooms.[7] These facilities are often ineffective and harmful, according to research.[8] For example:

- Studies have shown that children placed in secure facilities are more at risk for suicidal ideation, homelessness, poor education and employment outcomes, and other physical and mental health issues.
- These facilities can compound the trauma a child in the justice system experiences, because they are more likely to experience sexual misconduct, suicide activity, and other misconduct while at the facility.
- At times facilities may be found to provide short-term positive outcomes, but research shows they do not create lasting positive outcomes. Instead, these facilities are associated with higher rates of recidivism, higher costs, and lower levels of educational attainment. The child being separated from their families and communities and placing them with other children in crisis contribute to these risks and negative outcomes.[9]

HB 2329 would set back the progress within the youth justice system. It would take us back to the model that existed prior to 2016 and the passage of SB 367, returning Kansas to a time when nearly $50 million was spent on out-of-home placements. If the legislature truly wants to explore a return to these placement options, it is not only imperative but best practice that such a proposal be fully considered first. This decision should be vetted through the Juvenile Justice Oversight Committee and be thoroughly studied before passage to ensure there are proper guardrails in place to avoid the ability to send any child, regardless of offense severity, to an out-of-home placement, something that HB 2329 would allow as currently written. **The 2016 reforms were the results of years of study, and included the input of a wide variety of stakeholders; advancing legislation that undoes a crucial aspect of those reforms should not be rushed.**

A rehabilitative youth justice system should help children, not retraumatize them. Research shows that youth in the justice system, overall, have experienced more trauma than their peers. A rehabilitative justice system should use trauma-informed practices. Removing a young person from the family when they commit an offense almost always makes the situation worse and does not support trauma-informed approaches. Extensive research also finds that youth who are taken out of their families are more likely to commit crimes in the future than similar youth who are kept in their home. Being taken away from home and family is a traumatic experience for children, and that trauma often creates a negative cycle that leads to increasingly severe juvenile justice placements.

With the passage of SB 367, Kansas has seen vast improvements in outcomes for youth, with reduced recidivism, increased engagement in programs, and better compliance with court expectations. For example:

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[7] Hockenberry, S. and Sladky, A. US Department of Justice. “Juvenile Justice Facility Census 2020: Selected Findings.” 2024. https://ojjdp.ojp.gov/publications/juvenile-residential-facility-census-2020-selected-findings.pdf

[8] Kansas Juvenile Justice Workgroup. “Final Report.” 2015. https://www.doc.ks.gov/juvenile-services/Workgroup/report/Final; U.S. Department of Justice. Office of Juvenile Justice and Delinquency Prevention. “Literature Review: Juvenile Residential Programs.” 2019. https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/juvenile_residential_programs.pdf

[9] U.S. Department of Justice. Office of Juvenile Justice and Delinquency Prevention. “Literature Review: Juvenile Residential Programs.” 2019. https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/juvenile_residential_programs.pdf

- Prior to Youth Justice reform, 42% of all youth in juvenile correctional facilities were reincarcerated within three years of release. However, since the end of mass incarceration of Kansas youth, **reentry of youth offenders into correctional facilities has fallen by 86%**.[10]
- Most children involved in the youth justice system are referred to Immediate Intervention Programs (IIP), mental health services, or other treatment programs. Resources not spent on incarceration of children can be spent on these types of in-demand services that keep children out of jails. Further, the reduction of reentry since youth justice reforms in 2016, has shown these programs have more success and better outcomes than incarceration and other secure placements does.[11] In fact, data from the Juvenile Justice Oversight Committee indicates that these **IIPs have an over 90% completion success rate for children diverted through the programs.**[12]
- Since 2015, the number of youth in correctional facilities has fallen by nearly 50% in Kansas.[13]
- Prior to youth justice reforms, Kansas had the 6th highest rate of confinement per 100,000 youth. Since youth justice reforms, that rate has fallen significantly (about 60%), and Kansas now ranks 26th in the nation.[14]
- Now, close to 80% of all youth justice intakes result in community-based placements with only 20% resulting in a detention placement.[15]

These successes have been realized despite an ongoing mental health crisis in the state, limited community-based resources for youth involved in the justice system, and legislative efforts to roll back reforms.[16] Since the reforms' initial years, officials have failed to invest fully in their promises of restorative and equitable justice. Deep tax cuts and COVID-19 economic conditions caused pressure on the state budget, and lawmakers have shifted $21 million from money for justice-involved youth services and community programs to other areas of the budget.[17]

HB 2329 is one of these rollback attempts that will cost the state and the wellbeing of hundreds of Kansas children. Secure placements cost significantly more than community-based services. It costs the state about $134,000 a year for each youth incarcerated in a correctional facility.[18] Costs for community based interventions and probation are significantly less. SB 367 allowed those savings to fund the reinvestment funds to pay for community-based interventions and

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[10] Justice Center, The Council of State Governments, 2015. https://www.doc.ks.gov/juvenile-services/csg/PPT2015/view and Source: KDOC, JCF Admissions and Releases Dashboard, https://www.doc.ks.gov/dashboards/annual-report-dashboards

[11] KDOC, JCF Admissions and Releases Dashboard, https://www.doc.ks.gov/dashboards/annual-report-dashboards

[12] Kansas Juvenile Oversight Committee. “Annual Report.” 2024.

[13] KDOC, Annual Report, https://www.doc.ks.gov/dashboards/annual-report-dashboards and KDOD, Annual Report, 2015, https://www.doc.ks.gov/publications/Reports/Archived/2015/view

[14] KDOC, Annual Report, https://www.doc.ks.gov/dashboards/annual-report-dashboards and Justice Center, The Council of State Governments, 2015. https://www.doc.ks.gov/juvenile-services/csg/PPT2015/view

[15] Kansas Juvenile Oversight Committee. “Annual Report.” 2024.

[16] For example, HB 2021, which went into effect July 1, 2023, effectively eliminated case length limits that SB 367 established. It also increases the length of time a juvenile can be detained and allows for detainment for probation violations, including technical violations. H.B. 2021. K.S.A. 38, 65, 75 (2023). https://www.kslegislature.org/li/b2023_24/measures/documents/hb2021_enrolled.pdf

[17] Sanders, C. “State Juvenile Justice Reforms Can Boost Opportunity, Particularly for Communities of Color.” Center on Budget and Policy Priorities. 2021. https://www.cbpp.org/research/state-budget-and-tax/state-juvenile-justice-reforms-can-boost-opportunity-particularly-for

[18] Urban Institute, 2020, "Data Snapshot of Youth Incarceration in Kansas," https://www.urban.org/sites/default/files/publication/102130/data-snapshot-of-youth-incarceration-in-kansas-2020-update.pdf

services instead. The JJOC has been able to increase those reinvestment funds due to the savings from reduced use of secure placements. In doing so, they have been able to support the implementation of community-based, evidence-based practices that have proven results. In FY 2024, over $26 million was reinvested into community programs for Kansas youth. HB 2329 would significantly cut the amount available for successful community-based programs, because it would rely once again on taking kids away from their homes and communities and putting them secure placements. Further, the bill would increase youth justice costs, because of the significantly higher costs associated with secure placements.[19]

In all this talk about costs and evidence based outcomes, I think it is also important to remember the children we are talking about potentially facing secure placements should this bill passes.These are not violent, hardened criminals, but children whose brains and decision-making facilities are still developing. In 2024, 74% of all juvenile cases (8,750 out of 11,900 cases) in Kansas were for misdemeanors. These are minor crimes. Most of the children are ages 14-17.[20] There are so many vital experiences and growth opportunities a youth will unnecessarily miss with a return to increased use of residential facilities, not even considering the trauma and risk for exposure to more negative behaviors placement in these facilities can present.

Frustrations over the continued issues in the youth justice system are understandable, but we cannot continually ask the same children we aim to help to pay the costs and bear the burden of those failures. Returning to a punitive system that causes harm and sets children up for a life where they have to fight against a vicious cycle is not the answer. We've been there. **It doesn't work**.

The answer is to fully implement and fund the youth justice reforms we promised Kansas children and families almost a decade ago. We should follow what the data and research shows about the effectiveness of restorative justice practices in achieving true accountability and building empathy. As such, I urge you to join me in opposing this regressive and dangerous bill. In doing so, you will be keeping a promise to Kansas kids that they deserve to receive proper and effective support based on extensive evidence; that a mistake they make isn't going to find them in a harmful setting that will do nothing to set them up for future success.

I ask you to keep looking forward and recognize that this change has worked, and there are better alternatives to explore before electing to undo the progress this system has seen since 2016. Vote no on HB 2329 and keep the promise made to Kansas kids to do what is evidence-based, effective, and safe.

Thank you for your time,
Brenna Visocsky

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[19] Kansas Juvenile Oversight Committee. "Annual Report." 2024.
[20] This calculation excludes Child In Need of Care (CINC) intake cases. When those cases are included in the total, misdemeanors are still the majority of youth intakes at 58%. KDOC. Annual Reports Dashboard. Juvenile Report Home Page–Juvenile Intakes by Crime Type. https://idashboards.doc.ks.gov/idashboards/view.