

SENATE BILL No. 199

By Committee on Judiciary

2-4

9 AN ACT concerning juveniles; relating to custody; amending K.S.A. 38-
10 1632 and repealing the existing section.

11

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

13 Section 1. K.S.A. 38-1632 is hereby amended to read as follows: 38-
14 1632. (a) *Length of detention.* (1) Whenever an alleged juvenile offender
15 is taken into custody and is thereafter taken before the court or to a
16 juvenile detention facility or youth residential facility designated by the
17 court, the juvenile shall not remain detained for more than 48 hours,
18 excluding Saturdays, Sundays and legal holidays, from the time the initial
19 detention was imposed, unless the court determines after hearing, within
20 the 48-hour period, that further detention is necessary.

21 (2) If a juvenile is detained in jail pursuant to subsection (b) of K.S.A.
22 38-1691 and amendments thereto, the detention hearing required by this
23 section shall be held within 24 hours after the juvenile is taken into
24 custody.

25 (b) *Waiver of detention hearing.* The right of a juvenile to a detention
26 hearing may be waived if the juvenile and the attorney for the juvenile
27 consent in writing to waive the right to a detention hearing and the judge
28 approves the waiver. Whenever the right to a detention hearing has been
29 waived, the juvenile, the attorney for the juvenile or the juvenile's parents
30 may reassert the right at any time not less than 48 hours prior to the time
31 scheduled for trial by submitting a written request to the judge. Upon
32 request, the judge shall immediately set the time and place for the hear-
33 ing, which shall be held not more than 48 hours after the receipt of the
34 request excluding Saturdays, Sundays and legal holidays.

35 (c) *Notice of hearing.* Whenever it is determined that a detention
36 hearing is required the court shall immediately set the time and place for
37 the hearing. Except as otherwise provided by subsection (b)(1) of K.S.A.
38 38-1691 and amendments thereto, notice of the detention hearing shall
39 be given at least 24 hours prior to the hearing, unless waived, and shall
40 be in substantially the following form:

1	Name	Relationship	Date	Time	Method of Communication
2	(in person or telephone)				
3	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____

- 5 I advised each of the above named persons that:
- 6 (1) The hearing is to determine if the above named juvenile shall be detained;
 - 7 (2) each parent or person having legal custody should be present at the hearing;
 - 8 (3) they have the right to hire an attorney of their own choice for the juvenile;
 - 9 (4) if an attorney is not hired, the court will appoint an attorney for the juvenile;
 - 10 (5) the juvenile, parent or other person having custody of the juvenile may be required to
11 repay the court for the expense of the appointed attorney; and
 - 12 (6) the court may order one or both parents to pay child support.

13

14

15

16

17

18

(Signature)

(Name Printed)

(Title)

19 (e) *Hearing, finding, bond.* At the time set for the detention hearing
20 if no retained attorney is present to represent the juvenile, the court shall
21 appoint an attorney for the juvenile, and may recess the hearing for 24
22 hours to obtain attendance of the attorney appointed unless the juvenile
23 is detained in jail pursuant to subsection (b)(1) of K.S.A. 38-1691 and
24 amendments thereto. At the detention hearing, if the court finds the
25 juvenile is dangerous to self or others, the juvenile may be detained in a
26 juvenile detention facility or youth residential facility which the court shall
27 designate. If the court finds the juvenile is not likely to appear for further
28 proceedings, the juvenile may be detained in a juvenile detention facility
29 or youth residential facility which the court shall designate or may be
30 released upon the giving of an appearance bond in an amount specified
31 by the court and on the conditions the court may impose, in accordance
32 with the applicable provisions of article 28 of chapter 22 of the Kansas
33 Statutes Annotated and amendments thereto. In the absence of either
34 finding, the court shall order the juvenile released or placed in temporary
35 custody as provided in subsection (f).

36 In determining whether to place a juvenile in a juvenile detention fa-
37 cility pursuant to this subsection, the court shall consider all relevant
38 factors, including but not limited to the criteria listed in K.S.A. 38-1640
39 and amendments thereto. If the court orders the juvenile to be detained
40 in a juvenile detention facility, the court shall record the specific findings
41 of fact upon which the order is based.

42 If detention is ordered and the parent was not notified of the hearing
43 and did not appear and later requests a rehearing, the court shall rehear

1 the matter without unnecessary delay.

2 (f) *Temporary custody.* If the court determines that it is not necessary
3 to detain the juvenile but finds that release to the custody of a parent is
4 not in the best interests of the juvenile, the court may place the juvenile
5 in the temporary custody of a youth residential facility or some other
6 suitable person willing to accept temporary custody.

7 ~~(g) The court may enter an order removing a juvenile from the cus-~~
8 ~~tody of a parent and placing the child in the temporary custody of the~~
9 ~~commissioner pursuant to K.S.A. 38-1664, and amendments thereto.~~

10 ~~(h)~~ *Audio-video communications.* Detention hearings may be con-
11 ducted by two-way electronic audio-video communication between the
12 alleged juvenile offender and the judge in lieu of personal presence of
13 the juvenile or the juvenile's counsel in the courtroom from any location
14 within Kansas in the discretion of the court. The juvenile may be accom-
15 panied by the juvenile's counsel during such proceedings or counsel may
16 be personally present in court as long as a means of communication be-
17 tween the juvenile and the juvenile's counsel is available for consultation
18 between the juvenile and the juvenile's counsel in confidence.

19 Sec. 2. K.S.A. 38-1632 is hereby repealed.

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