

As Amended by Senate Committee

Session of 2005

SENATE BILL No. 200

By Committee on Judiciary

2-4

10 AN ACT concerning juveniles; relating to fingerprinting and photograph-
11 ing; amending K.S.A. ~~2004~~ **2005** Supp. 38-1611 and 75-7023 and re-
12 pealing the existing sections.
13

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

15 Section 1. K.S.A. ~~2004~~ **2005** Supp. 38-1611 is hereby amended to
16 read as follows: 38-1611. (a) Fingerprints or photographs shall not be
17 taken of any juvenile who is taken into custody for any purpose, except
18 that:

19 (1) Fingerprints or photographs of the juvenile may be taken if au-
20 thorized by a judge of the district court having jurisdiction;

21 (2) a juvenile's fingerprints shall be taken, and photographs of a ju-
22 venile may be taken, immediately upon taking the juvenile into custody
23 or upon first appearance or in any event before final sentencing, before
24 the court for an offense which, if committed by a person 18 or more years
25 of age, would make the person liable to be arrested and prosecuted for
26 the commission of a felony as defined by K.S.A. 21-3105 and amendments
27 thereto, a class A or B misdemeanor or assault, as defined by K.S.A. 21-
28 3408, and amendments thereto; ~~and~~

29 (3) fingerprints or photographs of a juvenile may be taken under
30 K.S.A. 21-2501 and amendments thereto if the juvenile has been:

31 (A) Prosecuted as an adult by reason of K.S.A. 38-1636, and amend-
32 ments thereto; or

33 (B) convicted of aggravated juvenile delinquency as defined by K.S.A.
34 21-3611 and amendments thereto; or

35 (C) taken into custody for an offense described in subsection (b)(1)
36 or (2) of K.S.A. 38-1602 and amendments thereto; *and*

37 (4) *fingerprints or photographs of a juvenile may be taken under sub-*
38 *section (d)(9) of K.S.A. 75-7023, and amendments thereto.*

39 (b) Fingerprints and photographs taken under subsection (a)(1) ~~or~~;
40 (2) *or* (4) shall be kept readily distinguishable from those of persons of
41 the age of majority. Fingerprints and photographs taken under subsection
42 (a)(3) may be kept in the same manner as those of persons of the age of
43 majority.

1 (c) Fingerprints and photographs of a juvenile shall not be sent to a
2 state or federal repository, except that:

3 (1) Fingerprints and photographs may be sent to a state or federal
4 repository if authorized by a judge of the district court having jurisdiction;

5 (2) a juvenile's fingerprints shall, and photographs of a juvenile may,
6 be sent to a state or federal repository if taken under subsection (a)(2);
7 and

8 (3) fingerprints or photographs taken under subsection (a)(3) shall be
9 processed and disseminated in the same manner as those of persons of
10 the age of majority.

11 (d) Fingerprints or photographs of a juvenile may be furnished to
12 another juvenile justice agency, as defined by K.S.A. 38-1617 and amend-
13 ments thereto, if the other agency has a legitimate need for the finger-
14 prints or photographs.

15 ~~(e) Any fingerprints or photographs of a juvenile taken under the~~
16 ~~provisions of subsection (a)(2) as it existed before the effective date of~~
17 ~~this act may be sent to a state or federal repository on or before December~~
18 ~~31, 1984.~~

19 ~~(f)~~ Any law enforcement agency that willfully fails to make any report
20 required by this section shall be liable to the state for the payment of a
21 civil penalty, recoverable in an action brought by the attorney general, in
22 an amount not exceeding \$500 for each report not made. Any civil penalty
23 recovered under this subsection shall be paid into the state general fund.

24 ~~(g)~~ (f) The director of the Kansas bureau of investigation shall adopt
25 any rules and regulations necessary to implement, administer and enforce
26 the provisions of this section, including time limits within which finger-
27 prints shall be sent to a state or federal repository when required by this
28 section.

29 ~~(h)~~ (g) Nothing in this section shall preclude the custodian of a ju-
30 venile from authorizing photographs or fingerprints of the juvenile to be
31 used in any action under the Kansas parentage act.

32 Sec. 2. K.S.A. ~~2004~~ **2005** Supp. 75-7023 is hereby amended to read
33 as follows: 75-7023. (a) The supreme court through administrative orders
34 shall provide for the establishment of a juvenile intake and assessment
35 system and for the establishment and operation of juvenile intake and
36 assessment programs in each judicial district. On and after July 1, 1997,
37 the secretary of social and rehabilitation services may contract with the
38 commissioner of juvenile justice to provide for the juvenile intake and
39 assessment system and programs for children in need of care. Except as
40 provided further, on and after July 1, 1997, the commissioner of juvenile
41 justice shall promulgate rules and regulations for the juvenile intake and
42 assessment system and programs concerning juvenile offenders. If the
43 commissioner contracts with the office of judicial administration to ad-

1 minister the juvenile intake and assessment system and programs con-
2 cerning juvenile offenders, the supreme court administrative orders shall
3 be in force until such contract ends and the rules and regulations con-
4 cerning juvenile intake and assessment system and programs concerning
5 juvenile offenders have been adopted.

6 (b) No records, reports and information obtained as a part of the
7 juvenile intake and assessment process may be admitted into evidence in
8 any proceeding and may not be used in a child in need of care proceeding
9 except for diagnostic and referral purposes and by the court in considering
10 dispositional alternatives. However, if the records, reports or information
11 are in regard to abuse or neglect, which is required to be reported under
12 K.S.A. 38-1522, and amendments thereto, such records, reports or infor-
13 mation may then be used for any purpose in a child in need of care
14 proceeding pursuant to the Kansas code for care of children.

15 (c) Upon a juvenile being taken into custody pursuant to K.S.A. 38-
16 1624, and amendments thereto, a juvenile intake and assessment worker
17 shall complete the intake and assessment process as required by supreme
18 court administrative order or district court rule prior to July 1, 1997, or
19 except as provided above rules and regulations established by the com-
20 missioner of juvenile justice on and after July 1, 1997.

21 (d) Except as provided in subsection (g) and in addition to any other
22 information required by the supreme court administrative order, the sec-
23 retary, the commissioner or by the district court of such district, the ju-
24 venile intake and assessment worker shall collect the following
25 information:

26 (1) A standardized risk assessment tool, such as the problem oriented
27 screening instrument for teens;

28 (2) criminal history, including indications of criminal gang
29 involvement;

30 (3) abuse history;

31 (4) substance abuse history;

32 (5) history of prior community services used or treatments provided;

33 (6) educational history;

34 (7) medical history; ~~and~~

35 (8) family history; *and*

36 (9) *notwithstanding any other provision of law, fingerprints and pho-*
37 *tographs for all juveniles taken into custody pursuant to K.S.A. 38-1624,*
38 *and amendments thereto, for the purposes of maintaining accurate iden-*
39 *tification of the juvenile within the juvenile justice information system.*

40 (e) After completion of the intake and assessment process for such
41 child, the intake and assessment worker may:

42 (1) Release the child to the custody of the child's parent, other legal
43 guardian or another appropriate adult if the intake and assessment worker

- 1 believes that it would be in the best interest of the child and it would not
2 be harmful to the child to do so.
- 3 (2) Conditionally release the child to the child's parent, other legal
4 guardian or another appropriate adult if the intake and assessment worker
5 believes that if the conditions are met, it would be in the child's best
6 interest to release the child to such child's parent, other legal guardian
7 or another appropriate adult; and the intake and assessment worker has
8 reason to believe that it might be harmful to the child to release the child
9 to such child's parents, other legal guardian or another appropriate adult
10 without imposing the conditions. The conditions may include, but not be
11 limited to:
- 12 (A) Participation of the child in counseling;
 - 13 (B) participation of members of the child's family in counseling;
 - 14 (C) participation by the child, members of the child's family and other
15 relevant persons in mediation;
 - 16 (D) provision of inpatient treatment for the child;
 - 17 (E) referral of the child and the child's family to the secretary of social
18 and rehabilitation services for services and the agreement of the child and
19 family to accept and participate in the services offered;
 - 20 (F) referral of the child and the child's family to available community
21 resources or services and the agreement of the child and family to accept
22 and participate in the services offered;
 - 23 (G) requiring the child and members of the child's family to enter
24 into a behavioral contract which may provide for regular school attend-
25 ance among other requirements; or
 - 26 (H) any special conditions necessary to protect the child from future
27 abuse or neglect.
- 28 (3) Deliver the child to a shelter facility or a licensed attendant care
29 center along with the law enforcement officer's written application. The
30 shelter facility or licensed attendant care facility shall then have custody
31 as if the child had been directly delivered to the facility by the law en-
32 forcement officer pursuant to K.S.A. 38-1528, and amendments thereto.
- 33 (4) Refer the child to the county or district attorney for appropriate
34 proceedings to be filed or refer the child and family to the secretary of
35 social and rehabilitation services for investigations in regard to the
36 allegations.
- 37 (5) Make recommendations to the county or district attorney con-
38 cerning immediate intervention programs which may be beneficial to the
39 juvenile.
- 40 (f) The commissioner may adopt rules and regulations which allow
41 local juvenile intake and assessment programs to create a risk assessment
42 tool, as long as such tool meets the mandatory reporting requirements
43 established by the commissioner.

1 (g) Parents, guardians and juveniles may access the juvenile intake
2 and assessment programs on a voluntary basis. The parent or guardian
3 shall be responsible for the costs of any such program utilized.

4 Sec. 3. K.S.A. ~~2004~~ **2005** Supp. 38-1611 and 75-7023 are hereby
5 repealed.

6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.