

HOUSE BILL No. 2922

By Representative Faber

2-14

9 AN ACT concerning juvenile offenders; relating to driver's license sus-
10 pensions; amending K.S.A. 38-1663 and repealing the existing section.

11

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

13 Section 1. K.S.A. 38-1663 is hereby amended to read as follows: 38-
14 1663. (a) When a respondent has been adjudicated to be a juvenile of-
15 fender, the judge may select from the following alternatives:

16 (1) Place the juvenile offender on probation for a fixed period, subject
17 to the terms and conditions the court deems appropriate based on the
18 juvenile justice programs in the community, including a requirement of
19 making restitution as required by subsection (d).

20 (2) Place the juvenile offender in the custody of a parent or other
21 suitable person, subject to the terms and conditions the court orders
22 based on the juvenile justice programs in the community, including a
23 requirement of making restitution as required by subsection (d).

24 (3) Place the juvenile offender in the custody of a youth residential
25 facility or, in the case of a chronic runaway youth, place the youth in a
26 secure facility, subject to the terms and conditions the court orders.

27 (4) Place the juvenile offender in the custody of the commissioner,
28 as provided in K.S.A. 38-1664, and amendments thereto.

29 (5) Commit the juvenile offender to a sanctions house for a period
30 no longer than seven days. Following such period, the court shall review
31 the placement. The court may continue to recommit the juvenile offender
32 to a sanctions house for a period no longer than seven days followed by
33 a court review. Commitment to a sanctions house shall not exceed 28
34 total days for the same act or transaction. If in the adjudication order, the
35 court orders a sanctions house placement for a verifiable probation vio-
36 lation and such probation violation occurs, the juvenile may immediately
37 be taken to a sanctions house and detained for no more than 48 hours,
38 excluding Saturdays, Sundays and holidays, prior to court review of the
39 placement. The court and all other interested parties shall be notified of
40 the sanctions house placement. An offender over 18 years of age or less
41 than 23 years of age at sentencing may be committed to a county jail, in
42 lieu of a sanctions house, under the same time restrictions imposed by
43 this paragraph. No offender may be committed under this paragraph un-

1 less such offender has violated the terms of probation.

2 (6) Commit the juvenile offender to a community based program
3 available in such judicial district subject to the terms and conditions the
4 court orders.

5 (7) Impose any appropriate combination of paragraphs (1) through
6 (6) of this subsection and make other orders directed to the juvenile
7 offender as the court deems appropriate.

8 (8) Commit the juvenile offender to a juvenile correctional facility as
9 provided by the placement matrix established in K.S.A. 38-16,129, and
10 amendments thereto. The provisions of K.S.A. 38-1664, and amendments
11 thereto, shall not apply to juvenile offenders committed directly to a ju-
12 venile correctional facility.

13 (9) Place the juvenile offender under a house arrest program admin-
14 istered by the court pursuant to K.S.A. 21-4603b, and amendments
15 thereto.

16 (b) (1) In addition to any other order authorized by this section, the
17 court may order the: (A) Juvenile offender and the parents of the juvenile
18 offender to:

19 (i) Attend counseling sessions as the court directs; or

20 (ii) participate in mediation as the court directs. Participants in such
21 mediation may include, but shall not be limited to, the victim, the juvenile
22 offender and the juvenile offender's parents. Mediation shall not be man-
23 datory for the victim;

24 (B) parents of the juvenile offender to participate in parenting classes;
25 or

26 (C) juvenile offender to participate in a program of education offered
27 by a local board of education including placement in an alternative edu-
28 cational program approved by a local board of education.

29 (2) Upon entering an order requiring a juvenile offender's parent to
30 attend counseling sessions or mediation, the court shall give the parent
31 notice of the order. The notice shall inform the parent of the parent's
32 right to request a hearing within 10 days after entry of the order and the
33 parent's right to employ an attorney to represent the parent at the hearing
34 or, if the parent is financially unable to employ an attorney, the parent's
35 right to request the court to appoint an attorney to represent the parent.
36 If the parent does not request a hearing within 10 days after entry of the
37 order, the order shall take effect at that time. If the parent requests a
38 hearing, the court shall set the matter for hearing and, if requested, shall
39 appoint an attorney to represent the parent. The expense and fees of the
40 appointed attorney may be allowed and assessed as provided by K.S.A.
41 38-1606, and amendments thereto.

42 (3) The costs of any counseling or mediation may be assessed as ex-
43 penses in the case. No mental health center shall charge a fee for court-

1 ordered counseling greater than what the center would have charged the
2 person receiving the counseling if the person had requested counseling
3 on the person's own initiative. No mediator shall charge a fee for court-
4 ordered mediation greater than what the mediator would have charged
5 the person participating in the mediation if the person had requested
6 mediation on the person's own initiative.

7 (c) (1) (A) *Except as required in paragraph (B)*, if a respondent has
8 been adjudged to be a juvenile offender, the court, in addition to any
9 other order authorized by this section, may suspend the juvenile of-
10 fender's driver's license or privilege to operate a motor vehicle on the
11 streets and highways of this state. The duration of the suspension ordered
12 by the court shall be for a definite time period to be determined by the
13 court.

14 (B) *If a juvenile is adjudicated to be a juvenile offender by reason of*
15 *a violation of K.S.A. 21-3701, and amendments thereto, the court shall*
16 *suspend the juvenile offender's driver's license or privilege to operate a*
17 *motor vehicle on the streets and highways of this state upon a first ad-*
18 *judication, for a period of six months, and upon a second or subsequent*
19 *adjudication, for a period of two years.* Upon suspension of a license
20 pursuant to this subsection, the court shall require the juvenile offender
21 to surrender the license to the court. The court shall transmit the license
22 to the division of motor vehicles of the department of revenue, to be
23 retained until the period of suspension expires. At that time, the licensee
24 may apply to the division for return of the license. If the license has
25 expired, the juvenile offender may apply for a new license, which shall
26 be issued promptly upon payment of the proper fee and satisfaction of
27 other conditions established by law for obtaining a license unless another
28 suspension or revocation of the juvenile offender's privilege to operate a
29 motor vehicle is in effect. As used in this subsection, "highway" and
30 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and
31 amendments thereto. Any respondent who is adjudicated to be a juvenile
32 offender who does not have a driver's license may have such juvenile
33 offender's driving privileges revoked. No Kansas driver's license shall be
34 issued to a juvenile offender whose driving privileges have been revoked
35 pursuant to this section for a definite time period ~~to be~~ *as* determined by
36 the court.

37 (2) In lieu of suspending the driver's license or privilege to operate
38 a motor vehicle on the highways of this state of any respondent adjudi-
39 cated to be a juvenile offender, as provided in subsection (c)(1)(A), the
40 court in which such juvenile offender was adjudicated to be a juvenile
41 offender may enter an order which places conditions on such juvenile
42 offender's privilege of operating a motor vehicle on the streets and high-
43 ways of this state, a certified copy of which such juvenile offender shall

1 be required to carry any time such juvenile offender is operating a motor
2 vehicle on the streets and highways of this state. Any such order shall
3 prescribe the duration of the conditions imposed and shall specify that
4 such duration shall be for a definite time period to be determined by the
5 court. Upon entering an order restricting a juvenile offender's license
6 hereunder, the court shall require such juvenile offender to surrender
7 such juvenile offender's driver's license to the court. The court shall trans-
8 mit the license to the division of vehicles, together with a copy of the
9 order. Upon receipt thereof, the division of vehicles shall issue without
10 charge a driver's license which shall indicate on its face that conditions
11 have been imposed on such juvenile offender's privilege of operating a
12 motor vehicle and that a certified copy of the order imposing such con-
13 ditions is required to be carried by the juvenile offender for whom the
14 license was issued any time such juvenile offender is operating a motor
15 vehicle on the streets and highways of this state. If the juvenile offender
16 is a nonresident, the court shall cause a copy of the order to be transmitted
17 to the division and the division shall forward a copy of it to the motor
18 vehicle administrator of such juvenile offender's state of residence. Such
19 court shall furnish to any juvenile offender whose driver's license has had
20 conditions imposed on it under this section a copy of the order, which
21 shall be recognized as a valid Kansas driver's license until such time as
22 the division shall issue the restricted license provided for in this subsec-
23 tion. Upon expiration of the period of time for which conditions are im-
24 posed pursuant to this subsection, the licensee may apply to the division
25 for the return of the license previously surrendered by such licensee. In
26 the event such license has expired, such juvenile offender may apply to
27 the division for a new license, which shall be issued immediately by the
28 division upon payment of the proper fee and satisfaction of the other
29 conditions established by law, unless such juvenile offender's privilege to
30 operate a motor vehicle on the streets and highways of this state has been
31 suspended or revoked prior thereto. If any juvenile offender shall violate
32 any of the conditions imposed under this subsection, such juvenile of-
33 fender's driver's license or privilege to operate a motor vehicle on the
34 streets and highways of this state shall be revoked for a period as deter-
35 mined by the court in which such juvenile offender is convicted of vio-
36 lating such conditions.

37 (d) Whenever a juvenile offender is placed pursuant to subsection
38 (a)(1) or (2), the court, unless it finds compelling circumstances which
39 would render a plan of restitution unworkable, shall order the juvenile
40 offender to make restitution to persons who sustained loss by reason of
41 the offense. The restitution shall be made either by payment of an amount
42 fixed by the court or by working for the persons in order to compensate
43 for the loss. If the court finds compelling circumstances which would

1 render a plan of restitution unworkable, the court may order the juvenile
2 offender to perform charitable or social service for organizations perform-
3 ing services for the community.

4 Nothing in this subsection shall be construed to limit a court's authority
5 to order a juvenile offender to make restitution or perform charitable or
6 social service under circumstances other than those specified by this sub-
7 section or when placement is made pursuant to subsection (a)(3) or (4).

8 (e) In addition to or in lieu of any other order authorized by this
9 section, the court may order a juvenile offender to pay a fine not exceed-
10 ing \$250 for each offense. In determining whether to impose a fine and
11 the amount to be imposed, the court shall consider the following:

12 (1) Imposition of a fine is most appropriate in cases where the juven-
13 ile offender has derived pecuniary gain from the offense.

14 (2) The amount of the fine should be related directly to the serious-
15 ness of the juvenile offender's offense and the juvenile offender's ability
16 to pay.

17 (3) Payment of a fine may be required in a lump sum or installments.

18 (4) Imposition of a restitution order is preferable to imposition of a
19 fine.

20 (5) The juvenile offender's duty of payment should be limited in dur-
21 ation and in no event should the time necessary for payment exceed the
22 maximum term which would be authorized if the offense had been com-
23 mitted by an adult.

24 (f) In addition to or in lieu of any other order authorized by this
25 section, if a juvenile is adjudicated to be a juvenile offender by reason of
26 a violation of K.S.A. 41-719, 41-727, 65-4101 through 65-4164 or K.S.A.
27 2000 Supp. 8-1599, and amendments thereto, the court shall order the
28 juvenile offender to submit to and complete an alcohol and drug evalu-
29 ation by a community-based alcohol and drug safety action program cer-
30 tified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a
31 fee not to exceed the fee established by that statute for such evaluation.
32 The court may waive such evaluation if the court finds that the juvenile
33 offender has completed successfully an alcohol and drug evaluation, ap-
34 proved by the community-based alcohol and drug safety action program,
35 within 12 months before sentencing. If such evaluation occurred more
36 than 12 months before sentencing, the court shall order the juvenile of-
37 fender to resubmit to and complete such evaluation and program as pro-
38 vided herein. If the court finds that the juvenile offender and those legally
39 liable for the offender's support are indigent, the fee may be waived. In
40 no event shall the fee be assessed against the commissioner or the juvenile
41 justice authority. The court may require the parent or guardian of the
42 juvenile offender to attend such program with the juvenile offender.

43 (g) The board of county commissioners of a county may provide by

1 resolution that the parents or guardians of any juvenile offender placed
2 under a house arrest program pursuant to subsection (a)(9) shall be re-
3 quired to pay to the county the cost of such house arrest program. The
4 board of county commissioners shall prepare a sliding financial scale
5 based on the ability of the parents to pay for such a program.

6 (h) In addition to any other order authorized by this section, if child
7 support has been requested and the parent or parents have a duty to
8 support the respondent the court may order, and when custody is placed
9 with the commissioner shall order, one or both parents to pay child sup-
10 port. The court shall determine, for each parent separately, whether the
11 parent already is subject to an order to pay support for the respondent.
12 If the parent currently is not ordered to pay support for the respondent
13 and the court has personal jurisdiction over the parent, the court shall
14 order the parent to pay child support in an amount determined under
15 K.S.A. 38-16,117, and amendments thereto. Except for good cause
16 shown, the court shall issue an immediate income withholding order pur-
17 suant to K.S.A. 23-4,105 *et seq.*, and amendments thereto, for each parent
18 ordered to pay support under this subsection, regardless of whether a
19 payor has been identified for the parent. A parent ordered to pay child
20 support under this subsection shall be notified, at the hearing or other-
21 wise, that the child support order may be registered pursuant to K.S.A.
22 38-16,119, and amendments thereto. The parent also shall be informed
23 that, after registration, the income withholding order may be served on
24 the parent's employer without further notice to the parent and the child
25 support order may be enforced by any method allowed by law. Failure
26 to provide this notice shall not affect the validity of the child support
27 order.

28 (i) Any order issued by the judge pursuant to this section shall be in
29 effect immediately upon entry into the court's journal.

30 (j) In addition to the requirements of K.S.A. 38-1671, and amend-
31 ments thereto, if a person is under 18 years of age and convicted of a
32 felony or adjudicated as a juvenile offender for an offense if committed
33 by an adult would constitute the commission of a felony, the court shall
34 forward a signed copy of the journal entry to the commissioner within 30
35 days of final disposition.

36 (k) The sentencing hearing shall be open to the public as provided in
37 K.S.A. 38-1652, and amendments thereto.

38 Sec. 2. K.S.A. 38-1663 is hereby repealed.

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