

## SENATE BILL No. 15

By Joint Committee on Corrections and Juvenile Justice Oversight

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9 AN ACT concerning the revised Kansas juvenile justice code; amending  
10 K.S.A. 2008 Supp. 38-2304, 38-2343, 38-2361 and 38-2365 and re-  
11 pealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2008 Supp. 38-2304 is hereby amended to read as  
15 follows: 38-2304. (a) Except as provided in K.S.A. 2008 Supp. 38-2347,  
16 and amendments thereto, proceedings concerning a juvenile shall be gov-  
17 erned by the provisions of this code.

18 (b) The district court shall have original jurisdiction to receive and  
19 determine proceedings under this code.

20 (c) When a complaint is filed under this code, the juvenile shall be  
21 presumed to be subject to this code, unless the contrary is proved.

22 (d) Once jurisdiction is acquired by the district court over an alleged  
23 juvenile offender, except as otherwise provided in subsection (e), juris-  
24 diction shall continue until one of the following occurs:

25 (1) The complaint is dismissed;

26 (2) the juvenile is adjudicated not guilty at trial;

27 (3) the juvenile, after being adjudicated guilty and sentenced:

28 (i) Successfully completes the term of probation or order of assign-  
29 ment to community corrections;

30 (ii) is discharged by the commissioner pursuant to K.S.A. 2008 Supp.  
31 38-2376, and amendments thereto;

32 (iii) reaches the juvenile's 21st birthday and no exceptions apply that  
33 extend jurisdiction beyond age 21;

34 (4) the court terminates jurisdiction; or

35 (5) the offender is convicted of a new felony while the offender is  
36 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671  
37 prior to its repeal or K.S.A. 2008 Supp. 38-2373, and amendments  
38 thereto, for an offense, which if committed by an adult would constitute  
39 the commission of a felony.

40 (e) Once jurisdiction is acquired by the district court over an alleged  
41 juvenile offender, it shall continue beyond the juvenile offender's 21st  
42 birthday but no later than the juvenile offender's 23rd birthday if either  
43 or both of the following conditions apply:

1 (1) The juvenile offender is sentenced pursuant to K.S.A. 2008 Supp.  
2 38-2369, and amendments thereto, and the term of the sentence includ-  
3 ing successful completion of aftercare extends beyond the juvenile of-  
4 fender's 21st birthday; or

5 (2) the juvenile offender is sentenced pursuant to an extended juris-  
6 diction juvenile prosecution and continues to successfully serve the sen-  
7 tence imposed pursuant to the revised Kansas juvenile justice code.

8 (f) Termination of jurisdiction pursuant to this section shall have no  
9 effect on the juvenile offender's continuing responsibility to pay restitu-  
10 tion ordered.

11 (g) (1) If a juvenile offender, at the time of sentencing, is in an out  
12 of home placement in the custody of the secretary of social and rehabil-  
13 itation services under the Kansas code for care of children, the sentencing  
14 court ~~may~~ shall order the continued placement of the juvenile offender  
15 as a child in need of care unless the offender was adjudicated for a felony  
16 ~~or a second or subsequent misdemeanor. If the adjudication was for a~~  
17 ~~felony or a second or subsequent misdemeanor, the continued placement~~  
18 ~~cannot be ordered unless committed directly to the custody of the com-~~  
19 ~~missioner for a period of confinement in a juvenile correctional facility~~  
20 ~~pursuant to K.S.A. 2008 Supp. 38-2361 (a)(12), and amendments thereto,~~  
21 ~~or the court finds there are compelling circumstances which, in the best~~  
22 ~~interest of the juvenile offender, require that the placement should not~~  
23 ~~be continued. In considering whether compelling circumstances exist, the~~  
24 ~~court shall consider the reports and recommendations of the foster place-~~  
25 ~~ment, the contract provider, the secretary of social and rehabilitation serv-~~  
26 ~~ices, the presentence investigation and all other relevant factors. If the~~  
27 ~~foster placement refuses to continue the juvenile in the foster placement~~  
28 ~~the court shall not order continued placement as a child in need of care.~~

29 (2) If a placement with the secretary of social and rehabilitation serv-  
30 ices is continued after sentencing, the secretary shall not be responsible  
31 for any costs of sanctions imposed under this code.

32 (3) If the juvenile offender is placed in the custody of the juvenile  
33 justice authority, the secretary of social and rehabilitation services shall  
34 not be responsible for furnishing services ordered in the child in need of  
35 care proceeding during the time of the placement pursuant to the revised  
36 Kansas juvenile justice code. Nothing in this subsection shall preclude  
37 the juvenile offender from accessing other services provided by the de-  
38 partment of social and rehabilitation services or any other state agency if  
39 the juvenile offender is otherwise eligible for the services.

40 Sec. 2. K.S.A. 2008 Supp. 38-2343 is hereby amended to read as  
41 follows: 38-2343. (a) *Length of detention.* Whenever a juvenile is taken  
42 into custody, the juvenile shall not remain in detention for more than 48  
43 hours, excluding Saturdays, Sundays and legal holidays, from the time the

1 initial detention was imposed, unless the court determines after hearing,  
2 within the 48-hour period, that further detention is necessary.

3 (b) *Waiver of detention hearing.* The detention hearing may be  
4 waived in writing by the juvenile and the juvenile's attorney with approval  
5 of the court. The right to a detention hearing may be reasserted in writing  
6 by the juvenile or the juvenile's attorney or parent at anytime not less  
7 than 48 hours prior to trial.

8 (c) *Notice of hearing.* Whenever it is determined that a detention  
9 hearing is required the court shall immediately set the time and place for  
10 the hearing. Except as otherwise provided by subsection (c)(1) of K.S.A.  
11 2008 Supp. 38-2332, and amendments thereto, notice of the detention  
12 hearing shall be given at least 24 hours prior to the hearing, unless waived.

13 (d) *Oral notice.* When there is insufficient time to give written notice,  
14 oral notice may be given and is completed upon filing a certificate of oral  
15 notice with the clerk.

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

31 In determining whether to place a juvenile in a juvenile detention fa-  
32 cility pursuant to this subsection, the court shall consider all relevant  
33 factors, including, but not limited to, the criteria listed in K.S.A. 2008  
34 Supp. 38-2331, and amendments thereto. If the court orders the juvenile  
35 to be detained in a juvenile detention facility, the court shall record the  
36 specific findings of fact upon which the order is based.

37 If detention is ordered and the parent was not notified of the hearing  
38 and did not appear and later requests a rehearing, the court shall rehear  
39 the matter without unnecessary delay.

40 (f) *Temporary custody.* If the court determines that detention is not  
41 necessary but finds that release to the custody of a parent is not in the  
42 best interests of the juvenile, the court may place the juvenile in the  
43 temporary custody of a youth residential facility, some other suitable per-

1 son willing to accept temporary custody or the commissioner. Such find-  
2 ing shall be made in accordance with K.S.A. 2008 Supp. 38-2334 and 38-  
3 2335, and amendments thereto. *The court may authorize temporary*  
4 *custody for a period up to 90 days. The court shall review the temporary*  
5 *custody order every 30 days and, if after finding that release to the cus-*  
6 *tody of a parent is still not in the best interests of the juvenile, may con-*  
7 *tinue such order. Temporary custody shall not exceed 90 days total from*  
8 *the initial temporary custody order.*

9 (g) *Audio-video communications.* Detention hearings may be con-  
10 ducted by two-way electronic audio-video communication between the  
11 juvenile and the judge in lieu of personal presence of the juvenile or the  
12 juvenile's attorney in the courtroom from any location within Kansas in  
13 the discretion of the court. The juvenile may be accompanied by the  
14 juvenile's attorney during such proceedings or the juvenile's attorney may  
15 be personally present in court as long as a means of confidential com-  
16 munication between the juvenile and the juvenile's attorney is available.

17 Sec. 3. K.S.A. 2008 Supp. 38-2361 is hereby amended to read as  
18 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant  
19 to K.S.A. 2008 Supp. 38-2356, and amendments thereto, modification of  
20 sentence pursuant to K.S.A. 2008 Supp. 38-2367, and amendments  
21 thereto, or violation of a condition of sentence pursuant to K.S.A. 2008  
22 Supp. 38-2368, and amendments thereto, and subject to subsection (a)  
23 of K.S.A. 2008 Supp. 38-2365, and amendments thereto, the court may  
24 impose one or more of the following sentencing alternatives. In the event  
25 that any sentencing alternative chosen constitutes an order authorizing or  
26 requiring removal of the juvenile from the juvenile's home and such find-  
27 ings either have not previously been made or the findings are not or may  
28 no longer be current, the court shall make determinations as required by  
29 K.S.A. 2008 Supp. 38-2334 and 38-2335, and amendments thereto.

30 (1) Place the juvenile on probation through court services or com-  
31 munity corrections for a fixed period, subject to terms and conditions the  
32 court deems appropriate consistent with juvenile justice programs in the  
33 community.

34 (2) Order the juvenile to participate in a community based program  
35 available in such judicial district subject to the terms and conditions the  
36 court deems appropriate. This alternative shall not be ordered with the  
37 alternative in paragraph (12) and when ordered with the alternative in  
38 paragraph (10) shall constitute a recommendation. Requirements per-  
39 taining to child support may apply if custody is vested with other than a  
40 parent.

41 (3) Place the juvenile in the custody of a parent or other suitable  
42 person, subject to terms and conditions consistent with juvenile justice  
43 programs in the community. This alternative shall not be ordered with

- 1 the alternative in paragraph (10) or (12). Requirements pertaining to child  
2 support may apply if custody is vested with other than a parent.
- 3 (4) Order the juvenile to attend counseling, educational, mediation  
4 or other sessions, or to undergo a drug evaluation pursuant to subsection  
5 (b).
- 6 (5) Suspend or restrict the juvenile's driver's license or privilege to  
7 operate a motor vehicle on the streets and highways of this state pursuant  
8 to subsection (c).
- 9 (6) Order the juvenile to perform charitable or community service  
10 work.
- 11 (7) Order the juvenile to make appropriate reparation or restitution  
12 pursuant to subsection (d).
- 13 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to  
14 subsection (e).
- 15 (9) Place the juvenile under a house arrest program administered by  
16 the court pursuant to K.S.A. 21-4603b, and amendments thereto.
- 17 (10) Place the juvenile in the custody of the commissioner as provided  
18 in K.S.A. 2008 Supp. 38-2365, and amendments thereto, *for out of home*  
19 *placement not to exceed 18 months from the initial custody order, or*  
20 *beyond the juvenile's 21st birthday, whichever occurs first.* This alterna-  
21 tive shall not be ordered with the alternative in paragraph (3) or (12). *No*  
22 *specific period of custody shall be ordered with this alternative.* Except  
23 for a mandatory drug and alcohol evaluation, when this alternative is or-  
24 dered with alternatives in paragraphs (2), (4) and (9), such orders shall  
25 constitute a recommendation by the court. Requirements pertaining to  
26 child support shall apply under this alternative.
- 27 (11) Commit the juvenile to a sanctions house for a period no longer  
28 than 28 days subject to the provisions of subsection (f).
- 29 (12) Commit the juvenile directly to the custody of the commissioner  
30 for a period of confinement in a juvenile correctional facility and a period  
31 of aftercare pursuant to K.S.A. 2008 Supp. 38-2369, and amendments  
32 thereto. The provisions of K.S.A. 2008 Supp. 38-2365, and amendments  
33 thereto, shall not apply to juveniles committed pursuant to this provision.  
34 This alternative may be ordered with the alternative in paragraph (7).  
35 Requirements pertaining to child support shall apply under this  
36 alternative.
- 37 (b) If the court orders the juvenile to attend counseling, educational,  
38 mediation or other sessions, or to undergo a drug and alcohol evaluation  
39 pursuant to subsection (a)(4), the following provisions apply:
- 40 (1) The court may order the juvenile offender to participate in coun-  
41 seling or mediation sessions or a program of education, including place-  
42 ment in an alternative educational program approved by a local school  
43 board. The costs of any counseling or mediation may be assessed as ex-

1 penses in the case. No mental health center shall charge a fee for court-  
2 ordered counseling greater than what the center would have charged the  
3 person receiving the counseling if the person had requested counseling  
4 on the person's own initiative. No mediator shall charge a fee for court-  
5 ordered mediation greater than what the mediator would have charged  
6 the person participating in the mediation if the person had requested  
7 mediation on the person's own initiative. Mediation may include the vic-  
8 tim but shall not be mandatory for the victim; and

9 (2) if the juvenile has been adjudicated to be a juvenile by reason of  
10 a violation of a statute that makes such a requirement, the court shall  
11 order and, if adjudicated for any other offense, the court may order the  
12 juvenile to submit to and complete a drug and alcohol evaluation by a  
13 community-based drug and alcohol safety action program certified pur-  
14 suant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to  
15 exceed the fee established by that statute for such evaluation. The court  
16 may waive the mandatory evaluation if the court finds that the juvenile  
17 completed a drug and alcohol evaluation, approved by the community-  
18 based alcohol and drug safety action program, within 12 months before  
19 sentencing. If the evaluation occurred more than 12 months before sen-  
20 tencing, the court shall order the juvenile to resubmit to and complete  
21 the evaluation and program as provided herein. If the court finds that the  
22 juvenile and those legally liable for the juvenile's support are indigent,  
23 the court may waive the fee. In no event shall the fee be assessed against  
24 the commissioner or the juvenile justice authority nor shall the fee be  
25 assessed against the secretary of social and rehabilitation services or the  
26 department of social and rehabilitation services if the juvenile is in the  
27 secretary's care, custody and control.

28 (c) If the court orders suspension or restriction of a juvenile of-  
29 fender's driver's license or privilege to operate a motor vehicle on the  
30 streets and highways of this state pursuant to subsection (a)(5), the fol-  
31 lowing provisions apply:

32 (1) The duration of the suspension ordered by the court shall be for  
33 a definite time period to be determined by the court. Upon suspension  
34 of a license pursuant to this subsection, the court shall require the juvenile  
35 offender to surrender the license to the court. The court shall transmit  
36 the license to the division of motor vehicles of the department of revenue,  
37 to be retained until the period of suspension expires. At that time, the  
38 licensee may apply to the division for return of the license. If the license  
39 has expired, the juvenile offender may apply for a new license, which shall  
40 be issued promptly upon payment of the proper fee and satisfaction of  
41 other conditions established by law for obtaining a license unless another  
42 suspension or revocation of the juvenile offender's privilege to operate a  
43 motor vehicle is in effect. As used in this subsection, "highway" and

1 “street” have the meanings provided by K.S.A. 8-1424 and 8-1473, and  
2 amendments thereto. Any juvenile offender who does not have a driver’s  
3 license may have driving privileges revoked. No Kansas driver’s license  
4 shall be issued to a juvenile offender whose driving privileges have been  
5 revoked pursuant to this section for a definite time period to be deter-  
6 mined by the court; and

7 (2) in lieu of suspending a juvenile offender’s driver’s license or priv-  
8 ilege to operate a motor vehicle on the highways of this state, the court  
9 may enter an order which places conditions on the juvenile offender’s  
10 privilege of operating a motor vehicle on the streets and highways of this  
11 state, a certified copy of which the juvenile offender shall be required to  
12 carry any time the juvenile offender is operating a motor vehicle on the  
13 streets and highways of this state. The order shall prescribe a definite  
14 time period for the conditions imposed. Upon entering an order restrict-  
15 ing a juvenile offender’s license, the court shall require the juvenile of-  
16 fender to surrender such juvenile offender’s license to the court. The  
17 court shall transmit the license to the division of vehicles, together with  
18 a copy of the order. Upon receipt thereof, the division of vehicles shall  
19 issue without charge a driver’s license which shall indicate on its face that  
20 conditions have been imposed on the juvenile offender’s privilege of op-  
21 erating a motor vehicle and that a certified copy of the order imposing  
22 the conditions is required to be carried by the juvenile offender when  
23 operating a motor vehicle on the streets and highways of this state. If the  
24 juvenile offender is a nonresident, the court shall cause a copy of the  
25 order to be transmitted to the division and the division shall forward a  
26 copy of it to the motor vehicle administrator of the juvenile offender’s  
27 state of issuance. The court shall furnish to any juvenile offender whose  
28 driver’s license has had conditions imposed on it under this section a copy  
29 of the order, which shall be recognized as a valid Kansas driver’s license  
30 until the division issues the restricted license provided for in this subsec-  
31 tion. Upon expiration of the period of time for which conditions are im-  
32 posed pursuant to this subsection, the juvenile offender may apply to the  
33 division for the return of the license previously surrendered by the ju-  
34 venile offender. In the event the license has expired, the juvenile offender  
35 may apply to the division for a new license, which shall be issued im-  
36 mediately by the division upon payment of the proper fee and satisfaction  
37 of the other conditions established by law unless such juvenile offender’s  
38 privilege to operate a motor vehicle on the streets and highways of this  
39 state has been suspended or revoked prior thereto. If any juvenile of-  
40 fender violates any of the conditions imposed under this subsection, the  
41 juvenile offender’s driver’s license or privilege to operate a motor vehicle  
42 on the streets and highways of this state shall be revoked for a period as  
43 determined by the court in which the juvenile offender is convicted of

1 violating such conditions.

2 (d) The following provisions apply to the court's determination of  
3 whether to order reparation or restitution pursuant to subsection (a)(7):

4 (1) The court shall order the juvenile to make reparation or restitu-  
5 tion to the aggrieved party for the damage or loss caused by the juvenile  
6 offender's offense unless it finds compelling circumstances that would  
7 render a plan of reparation or restitution unworkable. If the court finds  
8 compelling circumstances that would render a plan of reparation or res-  
9 titution unworkable, the court shall enter such findings with particularity  
10 on the record. In lieu of reparation or restitution, the court may order  
11 the juvenile to perform charitable or social service for organizations per-  
12 forming services for the community; and

13 (2) restitution may include, but shall not be limited to, the amount  
14 of damage or loss caused by the juvenile's offense. Restitution may be  
15 made by payment of an amount fixed by the court or by working for the  
16 parties sustaining loss in the manner ordered by the court. An order of  
17 monetary restitution shall be a judgment against the juvenile that may be  
18 collected by the court by garnishment or other execution as on judgments  
19 in civil cases. Such judgment shall not be affected by the termination of  
20 the court's jurisdiction over the juvenile offender.

21 (e) If the court imposes a fine pursuant to subsection (a)(8), the fol-  
22 lowing provisions apply:

23 (1) The amount of the fine may not exceed \$1,000 for each offense.  
24 The amount of the fine should be related to the seriousness of the offense  
25 and the juvenile's ability to pay. Payment of a fine may be required in a  
26 lump sum or installments;

27 (2) in determining whether to impose a fine and the amount to be  
28 imposed, the court shall consider that imposition of a fine is most appro-  
29 priate in cases where the juvenile has derived pecuniary gain from the  
30 offense and that imposition of a restitution order is preferable to im-  
31 position of a fine; and

32 (3) any fine imposed by court shall be a judgment against the juvenile  
33 that may be collected by the court by garnishment or other execution as  
34 on judgments in civil cases. Such judgment shall not be affected by the  
35 termination of the court's jurisdiction over the juvenile.

36 (f) If the court commits the juvenile to a sanctions house pursuant to  
37 subsection (a)(11), the following provisions shall apply:

38 (1) The court may order commitment for up to 28 days for the same  
39 offense or violation of sentencing condition. The court shall review the  
40 commitment every seven days and, may shorten the initial commitment  
41 or, if the initial term is less than 28 days, may extend the commitment;

42 (2) if, in the sentencing order, the court orders a sanctions house  
43 placement for a verifiable probation violation and such probation violation

1 occurs, the juvenile may immediately be taken to a sanctions house and  
2 detained for no more than 48 hours, excluding Saturdays, Sundays and  
3 holidays, prior to court review of the placement. The court and all parties  
4 shall be notified of the sanctions house placement; and

5 (3) a juvenile over 18 years of age and less than 23 years of age at  
6 sentencing shall be committed to a county jail, in lieu of a sanctions house,  
7 under the same time restrictions imposed by paragraph (1), but shall not  
8 be committed to or confined in a juvenile detention facility.

9 (g) Any order issued by the judge pursuant to this section shall be in  
10 effect immediately upon entry into the court's minutes.

11 (h) In addition to the requirements of K.S.A. 2008 Supp. 38-2373,  
12 and amendments thereto, if a person is under 18 years of age and con-  
13 victed of a felony or adjudicated as a juvenile offender for an offense if  
14 committed by an adult would constitute the commission of a felony, the  
15 court shall forward a signed copy of the journal entry to the commissioner  
16 within 30 days of final disposition.

17 (i) Except as further provided, if a juvenile has been adjudged to be  
18 a juvenile offender for an offense that if committed by an adult would  
19 constitute the commission of: (1) Aggravated trafficking, as defined in  
20 K.S.A. 2008 Supp. 21-3447, and amendments thereto, if the victim is less  
21 than 14 years of age; (2) rape, as defined in subsection (a)(2) of K.S.A.  
22 21-3502, and amendments thereto; (3) aggravated indecent liberties with  
23 a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amend-  
24 ments thereto; (4) aggravated criminal sodomy, as defined in subsection  
25 (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto; (5) promoting  
26 prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if  
27 the prostitute is less than 14 years of age; (6) sexual exploitation of a child,  
28 as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amend-  
29 ments thereto; or (7) an attempt, conspiracy or criminal solicitation, as  
30 defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto,  
31 of an offense defined in parts (1) through (6); the court shall issue an  
32 order prohibiting the juvenile from attending the attendance center that  
33 the victim of the offense attends. If only one attendance center exists, for  
34 which the victim and juvenile are eligible to attend, in the school district  
35 where the victim and the juvenile reside, the court shall hear testimony  
36 and take evidence from the victim, the juvenile, their families and a rep-  
37 resentative of the school district as to why the juvenile should or should  
38 not be allowed to remain at the attendance center attended by the victim.  
39 After such hearing, the court may issue an order prohibiting the juvenile  
40 from attending the attendance center that the victim of the offense  
41 attends.

42 (j) The sentencing hearing shall be open to the public as provided in  
43 K.S.A. 2008 Supp. 38-2353, and amendments thereto.

1     Sec. 4. K.S.A. 2008 Supp. 38-2365 is hereby amended to read as  
2 follows: 38-2365. (a) When a juvenile offender has been placed in the  
3 custody of the commissioner *pursuant to K.S.A. 2008 Supp. 38-2361*  
4 *(a)(10), and amendments thereto*, the commissioner shall have a reason-  
5 able time to make a placement. If the juvenile offender has not been  
6 placed, any party who believes that the amount of time elapsed without  
7 placement has exceeded a reasonable time may file a motion for review  
8 with the court. In determining what is a reasonable amount of time, mat-  
9 ters considered by the court shall include, but not be limited to, the nature  
10 of the underlying offense, efforts made for placement of the juvenile  
11 offender and the availability of a suitable placement. The commissioner  
12 shall notify the court and the juvenile offender's parent, in writing, of the  
13 initial placement and any subsequent change of placement as soon as the  
14 placement has been accomplished. The notice to the juvenile offender's  
15 parent shall be sent to such parent's last known address or addresses. The  
16 court shall have no power to direct a specific placement by the commis-  
17 sioner, but may make recommendations to the commissioner. The com-  
18 missioner may place the juvenile offender in an institution operated by  
19 the commissioner, a youth residential facility or any other appropriate  
20 placement. If the court has recommended an out-of-home placement,  
21 the commissioner may not return the juvenile offender to the home from  
22 which removed without first notifying the court of the plan.

23     (b) If a juvenile is in the custody of the commissioner, the commis-  
24 sioner shall prepare and present a permanency plan at sentencing or  
25 within 30 days thereafter. If a permanency plan is already in place under  
26 a child in need of care proceeding, the court may adopt the plan under  
27 the present proceeding. The written permanency plan shall provide for  
28 reintegration of the juvenile into such juvenile's family or, if reintegration  
29 is not a viable alternative, for other permanent placement of the juvenile.  
30 Reintegration may not be a viable alternative when: (1) The parent has  
31 been found by a court to have committed murder in the first degree,  
32 K.S.A. 21-3401, and amendments thereto, murder in the second degree,  
33 K.S.A. 21-3402, and amendments thereto, capital murder, K.S.A. 21-  
34 3439, and amendments thereto, voluntary manslaughter, K.S.A. 21-3403,  
35 and amendments thereto, of a child or violated a law of another state  
36 which prohibits such murder or manslaughter of a child;

37     (2) the parent aided or abetted, attempted, conspired or solicited to  
38 commit such murder or voluntary manslaughter of a child;

39     (3) the parent committed a felony battery that resulted in bodily in-  
40 jury to the juvenile who is the subject of this proceeding or another child;

41     (4) the parent has subjected the juvenile who is the subject of this  
42 proceeding or another child to aggravated circumstances as defined in  
43 K.S.A. 38-1502, and amendments thereto;

1 (5) the parental rights of the parent to another child have been ter-  
2 minated involuntarily; or

3 (6) the juvenile has been in extended out-of-home placement as de-  
4 fined in K.S.A. 2008 Supp. 38-2202, and amendments thereto.

5 (c) If the juvenile is placed in the custody of the commissioner, the  
6 plan shall be prepared and submitted by the commissioner. If the juvenile  
7 is placed in the custody of a facility or person other than the commis-  
8 sioner, the plan shall be prepared and submitted by a court services of-  
9 ficer. If the permanency goal is reintegration into the family, the per-  
10 manency plan shall include measurable objectives and time schedules for  
11 reintegration.

12 (d) During the time a juvenile remains in the custody of the com-  
13 missioner, the commissioner shall submit to the court, at least every six  
14 months, a written report of the progress being made toward the goals of  
15 the permanency plan submitted pursuant to subsections (b) and (c) and  
16 the specific actions taken to achieve the goals of the permanency plan. If  
17 the juvenile is placed in foster care, the court may request the foster  
18 parent to submit to the court, at least every six months, a report in regard  
19 to the juvenile's adjustment, progress and condition. Such report shall be  
20 made a part of the juvenile's court social file. The court shall review the  
21 plan submitted by the commissioner and the report, if any, submitted by  
22 the foster parent and determine whether reasonable efforts and progress  
23 have been made to achieve the goals of the permanency plan. If the court  
24 determines that progress is inadequate or that the permanency plan is no  
25 longer viable, the court shall hold a hearing pursuant to subsection (e).  
26 *If a juvenile is returned to the home from which removed, and 60 days*  
27 *have elapsed without a placement violation, successful reintegration shall*  
28 *be presumed and custody with the commissioner shall be terminated. The*  
29 *court may rescind any of its prior dispositional orders, enter any dispos-*  
30 *itional order authorized by the revised Kansas juvenile justice code or*  
31 *dismiss the proceedings.*

32 (e) When the commissioner has custody of the juvenile, a perma-  
33 nency hearing shall be held no more than 12 months after the juvenile is  
34 first placed outside such juvenile's home and at least every 12 months  
35 thereafter. Juvenile offenders who have been in extended out-of-home  
36 placement shall be provided a permanency hearing within 30 days of a  
37 request from the commissioner. The court may appoint a *guardian ad*  
38 *litem* to represent the juvenile offender at the permanency hearing. At  
39 each hearing, the court shall make a written finding whether reasonable  
40 efforts have been made to accomplish the permanency goal and whether  
41 continued out-of-home placement is necessary for the juvenile's safety.

42 (f) Whenever a hearing is required under subsection (e), the court  
43 shall notify all interested parties of the hearing date, the commissioner,

1 foster parent and preadoptive parent or relatives providing care for the  
2 juvenile and hold a hearing. Individuals receiving notice pursuant to this  
3 subsection shall not be made a party to the action solely on the basis of  
4 this notice and opportunity to be heard. After providing the persons re-  
5 ceiving notice an opportunity to be heard, the court shall determine  
6 whether the juvenile's needs are being adequately met; whether services  
7 set out in the permanency plan necessary for the safe return of the ju-  
8 venile have been made available to the parent with whom reintegration  
9 is planned; and whether reasonable efforts and progress have been made  
10 to achieve the goals of the permanency plan.

11 (g) If the court finds reintegration continues to be a viable alternative,  
12 the court shall determine whether and, if applicable, when the juvenile  
13 will be returned to the parent. The court may rescind any of its prior  
14 dispositional orders and enter any dispositional order authorized by this  
15 code or may order that a new plan for the reintegration be prepared and  
16 submitted to the court. If reintegration cannot be accomplished as ap-  
17 proved by the court, the court shall be informed and shall schedule a  
18 hearing pursuant to subsection (h). No such hearing is required when the  
19 parent voluntarily relinquishes parental rights or agree to appointment of  
20 a permanent guardian.

21 (h) When the court finds any of the following conditions exist, the  
22 county or district attorney or the county or district attorney's designee  
23 shall file a petition alleging the juvenile to be a child in need of care and  
24 requesting termination of parental rights pursuant to the Kansas code for  
25 care of children: (1) The court determines that reintegration is not a viable  
26 alternative and either adoption or permanent guardianship might be in  
27 the best interests of the juvenile;

28 (2) the goal of the permanency plan is reintegration into the family  
29 and the court determines after 12 months from the time such plan is first  
30 submitted that progress is inadequate; or

31 (3) the juvenile has been in out-of-home placement for a cumulative  
32 total of 15 of the last 22 months, excluding trial home visits and juvenile  
33 in runaway status.

34 Nothing in this subsection shall be interpreted to prohibit termination  
35 of parental rights prior to the expiration of 12 months.

36 (i) A petition to terminate parental rights is not required to be filed  
37 if one of the following exceptions is documented to exist: (1) The juvenile  
38 is in a stable placement with relatives;

39 (2) services set out in the case plan necessary for the safe return of  
40 the juvenile have not been made available to the parent with whom re-  
41 integration is planned; or

42 (3) there are one or more documented reasons why such filing would  
43 not be in the best interests of the juvenile. Documented reasons may

1 include, but are not limited to: The juvenile has close emotional bonds  
2 with a parent which should not be broken; the juvenile is 14 years of age  
3 or older and, after advice and counsel, refuses to be adopted; insufficient  
4 grounds exist for termination of parental rights; the juvenile is an unac-  
5 companied refugee minor; or there are international legal or compelling  
6 foreign policy reasons precluding termination of parental rights.  
7 Sec. 5. K.S.A. 2008 Supp. 38-2304, 38-2343, 38-2361 and 38-2365  
8 are hereby repealed.  
9 Sec. 6. This act shall take effect and be in force from and after its  
10 publication in the statute book.