

# MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 1:30 p.m. on March 16, 2011 in Room 144-S of the Capitol.

All members were present.

## Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Lauren Douglass, Legislative Research  
Robert Allison-Gallimore, Legislative Research  
Jackie Lunn, Committee Assistant

## Conferees appearing before the Committee:

Richard Short, Kansas Organization of State Employees  
Laura Calhoun, Kansas Organization of State Employees  
Bruce Miller, Kansas Organization of State Employees  
Commissioner Curtis Whitten, Juvenile Justice Authority  
Secretary Roberts, Kansas Department of Corrections

## Others attending:

See attached.

Chairperson Colloton called the meeting to order and introduced Richard Short, Kansas Organization of State Employees, to give his testimony regarding the challenges facing Corrections. Mr. Short presented written copy of his testimony. (Attachment 1) Mr. Short stated he is a Corrections Officer II at the Topeka Correctional Facility (TFC). His facility has issues with contraband and safety and violence against officers from inmates. Both these problems are intertwined and he believes can be solved through stiffer penalties for inmates who violate protocol and procedure. He feels that currently, inmates are not being held accountable for their actions. In closing, he voiced his concerns with the budget cuts and how challenging it will be if they cut some of the personnel at the Topeka Correctional Facility.

Chairperson Colloton asked the committee to hold any questions until all the representatives of the Kansas Organization of State Employees have given their testimonies.

Chairperson Colloton introduced Laura Calhoun, to give her testimony. Ms. Calhoun did not present written copy of her testimony. She stated she was an executive board member of the Kansas Organization of State Employees and she works at the Lansing Correctional Facility. She has concerns with the budget cuts in the Department of Corrections. At the Lansing Correctional Facility they are already short handed. She also stated the statutes call for 40 hours refresher training for employees each year and that has already been cut back. Cutting back on personnel and refresher training is a safety issue.

Chairperson Colloton introduced Bruce Miller, CIMI with KCI at the Hutchinson Correctional Facility (HCF). Mr. Miller presented written copy of his testimony. (Attachment 2) He stated he is frustrated with the budget cuts to the Department of Corrections. The cuts have reduced the amount of training hours and increased the amount of work hours through overtime, which in itself creates a loss of revenue. Along with that, they have increased the amount of the population that the officers handle every day. In return these officers face an increase in assaults, batteries, and the risk of getting caught up in the games that are played out within the correctional setting that the possibility of disciplinary action, time off without pay, termination, and the possibly of lawsuits and or criminal charges brought on by the above factors. In closing he stated with the thought of layoffs, furloughs, and terminations due to the stress of working with less protection and greater liability, I cannot see how they can provide an environment that is conducive to the mission statement of the KDOC.

A question and answer session followed.

Chairperson Colloton introduced Secretary Roberts, Department of Corrections, to give an update on the Department of Corrections. Secretary Roberts stated the Department of Corrections is having a very challenging year. They took an \$8.4 million cut in their budget, which has resulted in reductions in some staff and reductions in some operating expense money. He noted that most cuts were from the Division of Budget. He also addressed the issue they are facing with over capacity populations in the correctional

## CONTINUATION SHEET

The minutes of the Corrections and Juvenile Justice Committee at 1:30 p.m. on March 16, 2011, in Room 144-S of the Capitol.

facilities across the state. He stated that for the last five weeks they have been 130 to 176 over. With this trend continuing, there will be a gain of 1,960 offenders over capacity in the near future. The Department of Corrections is facing budgetary downturns with the population increasing. It was noted that the Topeka Correctional Facility is facing more challenges than the other facilities. The Chair requested information regarding budget cuts to the Department of Corrections and where the cuts will have to be made along with the plan of the Department of Corrections. She would like to have the information before the budget is approved.

A question and answer session followed.

Chairperson Colloton introduced Commissioner Curtis Whitten, Juvenile Justice Authority, to request an amendment to be added to an existing bill. Commissioner Whitten offered a written copy of the amendment he would like to offer regarding high school diplomas. (Attachment 3) He stated youth assigned to the custody of either SRS or JJA are often included in high school earning credit activities but may be moved from one high school to another during their placement. Both agencies make efforts to use education as a positive goal to motivate youth toward improved behavior or life progress. However, on occasion, a youth will have earned the minimum state requirements for a high school graduation diploma but will not have a diploma issuing authority. The requested amendment would permit and direct the issuance of a diploma by an appropriate school district upon meeting the specified pre-conditions.

### **SB 23-- Children and minors; relating to jury trials**

Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain where the amendment would fit into **SB 23**. Mr. Ostrow also explained the intent of SB 23 to the Committee.

A discussion followed.

**Representative Kinzer made a motion to pass SB 23 out favorably, Representative Pauls seconded.**

**Representative Kinzer made a substitute motion to add the amendment of JJA in the appropriate section and any technical cleanup needed. Representative McCray-Miller seconded.**

A discussion followed.

**Chairperson Colloton called for a vote on the motion on the floor to add the JJA amendment to SB 23. Motion carried.**

The discussion continued on **SB 23**.

**Representative Kinzer made a motion to pass SB 23 out favorably as amended. Representative Brookens seconded. Motion carried.**

### **HB 2322-Amendments to the Kansas offender registration act**

Chairperson Colloton moved the Committee's attention to **HB 2322** (the Adam Walsh Act) stating the Committee had two empty bills and they could use one for the Adam Walsh Act.

**Representative Moxley made a motion to put the Adam Wash Act which is HB 2322 into the shell of SB 37. Representative Smith seconded.**

A discussion followed.

**Chairperson Colloton called for a vote on the motion on the floor to put HB 2322 into the SB 37 shell. Motion carried.**

**Representative Pauls made a motion to pass SB 37 out favorably as amended. Representative McCray-Miller seconded. Motion carried.**

**HB-2031-Allowing the attorney general or the county or district attorney to request of the district court the convening of a grand jury to investigate alleged violations of serious felonies. (more)**

**HB 2371-Amending the provisions of community corrections grants and continuing such programs in certain counties**

**SB 60-Crimes, criminal punishment and procedure; relating to grand juries, relating to appeals;**

CONTINUATION SHEET

The minutes of the Corrections and Juvenile Justice Committee at 1:30 p.m. on March 16, 2011, in Room 144-S of the Capitol.

**relating to community corrections**

Chairperson Colloton moved the Committee's attention to SB 60.

A discussion followed regarding HB 2031.

Representative Kinzer made a motion to pass SB 60 out favorably. Representative Pauls seconded.

The discussion continued with Representative Kinzer making a substitute motion to put HB 2031 as it was passed by the body of the House, in SB 60. Representative Smith seconded. Motion carried.

The discussion continued regarding HB 2371.

Representative Kinzer made a motion to put HB 2371 into SB 60. Representative McCray Miller seconded. Motion carried.

Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain SB 60.

Representative Kinzer made a motion to pass SB 60 out as amended. Representative Smith seconded. Motion carried

Chairperson Colloton adjourned the meeting at 3:10 pm with the next meeting scheduled for Friday, March 18, 2011 in room 144-S.

# CORRECTIONS & JUVENILE JUSTICE GUEST LIST

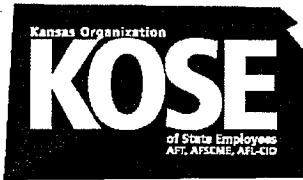
DATE: 3-16-11

NAME	REPRESENTING
Ed Kump	KACP/KPOA/KSA
Richard Shortt	KOSE
Donovan Grace	KOSE
Suzanne Scribner	KOSE
Laura Calhoun	KOSE
Don Zavodny	KOSE
Darrel King Jr	KOSE
Jay Warring	KOSE
Gregory L Whitfield	KOSE
Bruce C Miller	KOSE
R J Wilson	KOSE
Britt Nichols	Juvenile Justice
Tim Madden	KDOC
Mark Gleeson	Judicial Branch
Brendan Yorkley	Budget
BS Clelland	Governor's Office
Nicholas Bracken	Intern
Patrick Voegelberg	KCDAA
Lynn Berone	KJIA

DATE: 3-16-11

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## A New Day... A Better Way... For State Employees

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Testimony before the  
House Corrections and Juvenile Justice Committee  
Richard Short, Topeka Correctional Facility  
Kansas Organization of State Employees  
March 16, 2011

My Name is Richard Short and I am a Corrections Officer II at the Topeka Correctional Facility (TCF) and have proudly served KDOC for 8 ½ years. I am thankful for the opportunity to speak to this Committee today and to shed some light on the challenges facing corrections.

First of all, at TCF we are horribly disadvantaged when it comes to violence against officers from inmates. Offenders are getting younger and their sentences are getting longer; many don't see light at the end of the tunnel and quickly resort to violence and misbehavior for conflict resolution. Many have no concern with the way they treat each other let alone the staff. Currently, there are 108 inmates to a dorm with just one officer on watch. At my facility, our staff has had three major injuries involving broken bones, including one involving myself, times have never been more hostile.

Issues with contraband such as tobacco are an ever growing problem at our facility. If inmates are obtaining tobacco through illegal means, then, there is no telling when they will get their hands on weapons and other illicit objects and/or substances. At present, officers and staff just cannot keep up the constant supervision needed to intercept contraband over the escalating inmate population.

The dual problems of safety and contraband are my facility's biggest challenges. These problems are intertwined and could possibly be solved through stiffer penalties for inmates who violate protocol and procedure. At the current rate, inmates are basically not being held accountable for their actions.

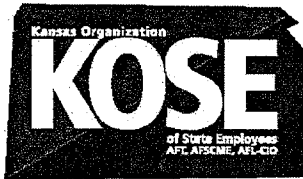
Lastly, I want to address the constant dark cloud over the heads of KDOC employees; the dark cloud of whether our agencies or facilities are going to get properly funded, whether we will make enough money to provide for our families, and whether we will have a decent retirement to fall back on. This dark cloud is a deterrent for younger workers just entering the labor force who would otherwise find state service and KDOC a fine career choice. With the constant politicization of the budget, employee pay, and retirement it gets more and more difficult for our profession to attract and maintain a quality workforce. This is the biggest challenge facing our line of work.

With that I thank the Madam Chair and Committee once again for allowing me to speak.

House Corrections and Juvenile Justice  
Committee  
2011 Session  
Date 3-16-11  
Attachment # 1

Kansas Organization of State Employees, AFT/AFSCME, AFL-CIO  
1301 SW Topeka Boulevard • Topeka, KS 66612 • (785) 354-1174

KOSESU



## A New Day... A Better Way... For State Employees

Testimony before the  
House Corrections and Juvenile Justice Committee  
Bruce Miller, Hutchinson Correctional Facility  
Kansas Organization of State Employees  
March 16, 2011

My name is Bruce Miller and I have been employed with KDOC for 23 yrs. I presently hold a position of CIM1 with KCI at the Hutchinson Correctional Facility (HCF). I would like to thank you for hearing me today and I am on vacation to have my own personal voice heard regarding issues that affect myself and my co-workers. Today as I share the experience and the frustrations that we have within the KDOC I am reminded also that you represent these same KDOC employees, that your ear, in listening, and your heart, in hearing, is not your own but represents those that depend on your sound judgment..

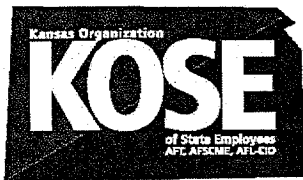
A 2010 workforce report generated by Department of Administration Division of Personnel Services stated that at the end of 2009 there were 3,050 classified KDOC employees. Of that there are 1659 Classified officers that handle the security needs of those 8 Correctional facilities. It was estimated that at the end of FY 2011 there would be 9,118 inmates incarcerated in those 8 facilities. It goes on to say that by the end of the 2012 FY that population will increase to 9,274. This would give the KDOC an average of 5.5 offenders to every one officer. That number sounds comfortable but we have to take into consideration that these facilities are 24/7. After 25yrs of service I can assure you that the service provided for you and the citizens of the State of Kansas is one of the toughest jobs, if not one of the most stressful.

Jobs in Public Safety have the highest turnover rate (16.66%). Most of this is due to the pressure that one is not prepared for when entering into the community of corrections. Hutchinson Correctional Facility alone had for fiscal year 2010 just over 500 classified employees with an average of 21.14% for the turnover rate which is second in Corrections only to Larned Correctional facility at 30.47%. The average turnover rate among all the Correctional facilities is around 18 to 20 percent.

In a recent report given to this committee the report states that 48% of terminations occurred within the first 5 yrs of service, significantly lower than in FY 2009 (56%). This reduction of terminations, I believe, was in part due to the market adjustments, which increased the take home pay of KDOC staff, and the economic status of the state, which is not giving many young people the opportunities they had hoped for.

With the budget cuts we have reduced the amount of training hours, increased the amount of work hours through overtime, which in itself creates a loss of revenue. Along with that, we have increased the amount of the population that these officers handle every day. In return these officers face an increase in assaults, batteries, and the risk of getting caught up in the games that are played out within the correctional setting that brings the possibility of disciplinary action, time off without pay, termination, and the possibility of lawsuits and or criminal charges brought on by the above factors.

The trend of reducing inmate population between FY 2004 and FY 2009 was reversed in FY 2010, rising to an average daily population of 8,689, making the utilization rate 98.0 percent at the end of FY 2010. According to the Kansas Legislator Briefing Book 2011, the increasing inmate population has continued in



## A New Day... A Better Way... For State Employees

the first quarter of FY 2011. On October 1, 2010, the average daily inmate population for FY 2011 was 8,908, a utilization rate of 98.4 percent.

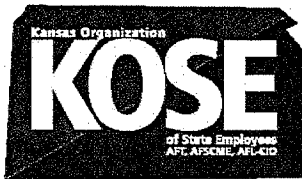
In a recent report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2011 Kansas Legislature, Helen Pedigo, Executive Director, Kansas Sentencing Commission (KSC), provided the Committee with an update on adult inmate prison population projections. Ms. Pedigo stated that new admissions have increased in drug level 4, nondrug level 7, and nondrug level 9. The increase in nondrug level 7 through 10 is probation condition violators. Ms. Pedigo stated that, based upon the available bed space and the population trends, some action in the 2011 Legislative Session will be required to prevent an overcrowding situation. This has been the highest number of admissions concerning Kansas Legislative Research since 1994 and the forecast is to grow 2.75 percent over the next two years. She also supplied the continuing estimates of prison population growth and that it could increase by 2020 an additional 1,960 beds. This is nearly the total population of HCF alone. With the present population of about 8,900 and the projected increase of 1,960 beds the inmate to officer ratio would be closer to 8 inmates to 1 officer. I don't believe that anyone of us today could or for that matter would choose to defend ourselves against the type of violent offender we have today. But it is these officers that choose to do the very thing that seems to be forgotten. Local law enforcement has the ability to handle the violent offender with more than one officer. Generally in their response to any incident they would have to contend with one violent offender. With corrections that officers most generally have to contend with more than one offender during any violent incident

In the report of the Joint Committee on Corrections and Juvenile Justice Oversight, the Committee was concerned about the cumulative effects of the budget reductions made to these agencies. The Committee noted that these reductions affect the ability of these agencies to safely and adequately incarcerate offenders or prepare for the reentry of offenders, which negatively affects the public safety of the citizens of Kansas and may ultimately cost the state more money. **In particular, the reductions have prompted the KDOC to do the following: increase shrinkage rates by holding open positions at the central office and the correctional facilities.** Since this is a fact, the above ratios could be as high as 10 to 1.

With the increase of the inmate population and the decrease in staffing we can expect it to become more difficult to manage emergencies, more difficult to separate inmates with conflicts, and a greater reliance on segregation. It will increase the rate of assaults on staff, increase the amount of workmen compensation cases, increase the amount of overtime due to lack of staffing, and increase even more the ratio of inmate to officers. I don't believe that anyone of us today could or for that matter would choose to defend ourselves against the type of violent offender we have. But these officers choose to do the very thing that seems to be forgotten. Local law enforcement has the ability to handle the violent offender with more than one officer. Generally in their response to any incident they would have to contend with one violent offender. With corrections that officers most generally have to contend with more than one offenders during any violent incident.

In a recent report generated by the Kansas Parole Board they stated that, "the cases considered by the Parole Board are more serious and heinous and are dominated substantially by person crimes and person-sex crimes where the degree of harm experienced by the victim(s) is tremendous. These cases require more





## A New Day... A Better Way... For State Employees

time in research and deliberation than property or drug crimes. These cases also require substantially more time in preparation for the interview and more time during the interview as the duration of activity and behaviors under consideration is extensive.”

With that being said, if the Parole Board understands the increase of the nature of the crimes by the offenders, which will in evidently be an inmate under the supervision of one or more of the 1659 classified officers, then we at those correctional facilities are in as much danger as those victims, if not more, considering that they have been extracted from the world that they were familiar with and placed in the jungle of corrections.

With the thought of layoffs, furloughs, and terminations due to the stress of working with less protection and greater liability, I cannot see how we can provide an environment that is conducive to the mission statement of the KDOC which states that as a part of the criminal justice system, “the KDOC contributes to the public safety and supports victims of the crimes by exercising safe and effective containment and supervision of inmates”. Former Secretary Werholtz, in a statement to this committee, concluded that program restoration is critical, because the impact the programs increase the facility safety, and parole officers are getting worn out because of lack of options and tools. I appreciate the concern for public safety and the hard work of those working in the parole system but I am disturbed by the lack of recognition to the Correctional Officer who put their lives on the line everyday, who are faced with the possibility of being assaulted, spit on, feces thrown at them thus creating the possibility of exposure of an infectious disease and the possible loss of their lives.

The KDOC and the State of Kansas face a huge dilemma in financing these changes but I assure you that if these changes come, the biggest challenge will be to retain the employees needed to provide the safety that this committee speaks of. That being said, I ask you to weigh every decision you make based on these things:

- 1) Know that every day you are here it because state employees who help you.
- 2) Know that these same employees are Kansans just like yourself and that they trust your decisions based on right and sound judgment.
- 3) Know that as they trust you, they are protecting you, and hope that the same protection they offer is being given back in the form of job security and the ability to provide for their families.

Thank you for your time and consideration.



## JUVENILE JUSTICE AUTHORITY

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### LEGISLATIVE MEMO

03/04/2011

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### JJA Requested Amendment:

#### Add new section to amend KSA 38-2263

KSA 38-2263, adding a new subparagraph (g):

(g) A high school diploma shall be awarded to a person by the unified school district in which such person is enrolled or resides if such person is or has been a child in the custody of the secretary on or after their 17th birthday and that student has achieved the minimum high school graduation requirements as defined by the Kansas State Department of Education.

#### Add new section to amend KSA 38-2365

KSA 38-2365, adding a new subparagraph (j):

(j) A high school diploma shall be awarded to a person by the unified school district in which such person is enrolled or resides if such person is or has been a juvenile in the custody of the commissioner on or after their 17th birthday and that student has achieved the minimum high school graduation requirements as defined by the Kansas State Department of Education.

### Purpose:

Youth assigned to the custody of either SRS or JJA are often included in high school credit earning activities but may be moved from one high school to another during their placement. Both agencies make efforts to use education as a positive goal to motivate youth toward improved behavior or life progress. However, on occasion, a youth will have earned the minimum state requirements for a high school graduation diploma but will not have a diploma issuing authority. The requested change would permit and direct the issuance of a diploma by an appropriate school district upon meeting the specified pre-conditions.

### Supported by:

The amendment is requested by JJA and has the support of SRS and the Department of Education. The language has been vetted by both entities.

Direct Questions To:

Britt Nichols – Inspector General JJA

Bradley Burke – General Counsel JJA

House Corrections and Juvenile Justice  
Committee

2011 Session

Date 3-16-11

Attachment # 3-1

House Substitute for Senate Bill \_\_\_\_\_

AN ACT . . .

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

Section \_\_. K.S.A. 38-2263 is hereby amended to read as follows: 38-2263. Permanency planning. (a) The goal of permanency planning is to assure, in so far as is possible, that children have permanency and stability in their living situations and that the continuity of family relationships and connections is preserved. In planning for permanency, the safety and well being of children shall be paramount.

(b) Whenever a child is subject to the jurisdiction of the court pursuant to the code, an initial permanency plan shall be developed for the child and submitted to the court within 30 days of the initial order of the court. If the child is in the custody of the secretary, or the secretary is providing services to the child, the secretary shall prepare the plan. Otherwise, the plan shall be prepared by the person who has custody or, if directed by the court, by a court services officer.

(c) A permanency plan is a written document prepared, where possible, in consultation with the child's parents and which:

(1) Describes the permanency goal which, if achieved, will most likely give the child a permanent and safe living arrangement;

(2) describes the child's level of physical health, mental and emotional health, and educational functioning;

(3) provides an assessment of the needs of the child and family;

(4) describes the services to be provided the child, the child's parents and the child's foster parents, if appropriate;

(5) includes a description of the tasks and responsibilities designed to achieve the plan and to whom assigned; and

(6) includes measurable objectives and time schedules for achieving the plan.

(d) In addition to the requirements of subsection (c), if the child is in an out of home placement, the permanency plan shall include:

(1) A plan for reintegration of the child's parent or parents or if reintegration is determined not to be a viable alternative, a statement for the basis of that conclusion and a plan for another permanent living arrangement;

(2) a description of the available placement alternatives;  
(3) a justification for the placement selected, including a description of the safety and appropriateness of the placement; and

(4) a description of the programs and services which will help the child prepare to live independently as an adult.

(e) If there is a lack of agreement among persons necessary for the success of the permanency plan, the person or entity having custody of the child shall notify the court which shall set a hearing on the plan.

(f) A permanency plan may be amended at any time upon agreement of the plan participants. If a permanency plan requires amendment which changes the permanency goal, the person or entity having custody of the child shall notify the court which shall set a permanency hearing pursuant to K.S.A. 2010 Supp. 38-2264 and 38-2265, and amendments thereto.

*(g) A high school diploma shall be awarded to a person by the unified school district in which such person is enrolled or resides if such person is or has been a child in the custody of the secretary on or after their 17th birthday and that student has achieved the minimum high school graduation requirements as defined by the Kansas State Department of Education.*

Section \_\_. K.S.A. 38-2365 is hereby amended to read as follows: 38-2365. Juvenile offender placed in custody of commissioner; placement; permanency plan; progress report to court; hearing; notification; termination of parental rights. (a) When a juvenile offender has been placed in the custody of the commissioner, the commissioner shall have a reasonable time to make a placement. If the juvenile offender has not been placed, any party who believes that the amount of time elapsed without placement has exceeded a reasonable time may file a motion for review with the court. In determining what is a reasonable amount of time, matters considered by the court shall include, but not be limited to, the nature of the underlying offense, efforts made for placement of the juvenile offender and the availability of a suitable placement. The commissioner shall notify the court, the juvenile's attorney of record and the juvenile's parent, in writing, of the initial placement and any subsequent change of placement as soon as the placement has been accomplished. The notice to the juvenile offender's parent shall be sent to such parent's last known address or addresses. The court shall have no power to direct a specific placement by the commissioner, but may make recommendations to the commissioner. The commissioner may place the juvenile offender in an institution operated by the commissioner, a youth residential facility or any other appropriate placement. If the court has recommended an out-of-home placement, the commissioner may not return the juvenile offender to the home from which removed without first notifying the court of the plan.

(b) If a juvenile is in the custody of the commissioner, the commissioner shall prepare and present a permanency plan at sentencing or within 30 days thereafter. If a permanency plan is already in place under a child in need of care proceeding, the court may adopt the plan under the present proceeding. The written permanency plan shall provide for reintegration of the juvenile into such juvenile's family or, if reintegration is not a viable alternative, for other permanent placement of the juvenile. Reintegration may not be a viable alternative when: (1) The parent has been found by a court to have committed murder in the first degree, K.S.A. 21-3401, and

amendments thereto, murder in the second degree, K.S.A. 21-3402, and amendments thereto, capital murder, K.S.A. 21-3439, and amendments thereto, voluntary manslaughter, K.S.A. 21-3403, and amendments thereto, of a child or violated a law of another state which prohibits such murder or manslaughter of a child;

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

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

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

(5) the parental rights of the parent to another child have been terminated involuntarily; or

(6) the juvenile has been in extended out-of-home placement as defined in K.S.A. 2010 Supp. 38-2202, and amendments thereto.

(c) If the juvenile is placed in the custody of the commissioner, the plan shall be prepared and submitted by the commissioner. If the juvenile is placed in the custody of a facility or person other than the commissioner, the plan shall be prepared and submitted by a court services officer. If the permanency goal is reintegration into the family, the permanency plan shall include measurable objectives and time schedules for reintegration.

(d) During the time a juvenile remains in the custody of the commissioner, the commissioner shall submit to the court, at least every six months, a written report of the progress being made toward the goals of the permanency plan submitted pursuant to subsections (b) and (c) and the specific actions taken to achieve the goals of the permanency plan. If the juvenile is placed in foster care, the court may request the foster parent to submit to the court, at least every six months, a report in regard to the juvenile's adjustment, progress and condition. Such report shall be made a part of the juvenile's court social file. The court shall review the plan submitted by the commissioner and the report, if any, submitted by the foster parent and determine whether reasonable efforts and progress have been made to achieve the goals of the permanency plan. If the court determines that progress is inadequate or that the permanency plan is no longer viable, the court shall hold a hearing pursuant to subsection (e).

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

(f) Whenever a hearing is required under subsection (e), the court shall notify all interested parties of the hearing date, the commissioner, foster parent and preadoptive parent or relatives providing care for the juvenile and hold a hearing. Individuals receiving notice pursuant to this subsection shall not be made a party to the action solely on the basis of this notice and opportunity to be heard. After providing the persons receiving notice an opportunity to be heard, the court shall determine whether the juvenile's needs are being adequately met; whether services set out in the permanency plan necessary for the safe return of the juvenile have been made available to the parent with whom reintegration is planned; and whether reasonable efforts and progress have been made to achieve the goals of the permanency plan.

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

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

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

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

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

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

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

(3) there are one or more documented reasons why such filing would not be in the best interests of the juvenile. Documented reasons may include, but are not limited to: The juvenile has close emotional bonds with a parent which should not be broken; the juvenile is 14 years of age or older and, after advice and counsel, refuses to be adopted; insufficient grounds exist for termination of parental rights; the juvenile is an unaccompanied refugee minor; or there are international legal or compelling foreign policy reasons precluding termination of parental rights.

(j) *A high school diploma shall be awarded to a person by the unified school district in which such person is enrolled or resides if such person is or has been a juvenile in the custody of the commissioner on or after their 17th birthday and that student has achieved the minimum high school graduation requirements as defined by the Kansas State Department of Education.*