

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Corrections and Juvenile Justice** recommends **HB 2329** be amended on page 2, in line 2, by striking "group home" and inserting "youth residential facility";

On page 3, in line 8, after "was" by inserting "possessed or"; also in line 8, by striking "in" and inserting "during"; in line 12, by striking "six" and inserting "12"; also in line 12, by striking "18" and inserting "24";

On page 4, in line 29, by striking "have the meanings provided by" and inserting "mean the same as defined in";

On page 7, in line 18, after "(j)" by inserting "(1)"; in line 20, by striking "(1)" and inserting "(A)"; in line 22, by striking "(2)" and inserting "(B)"; in line 23, by striking "(3)" and inserting "(C)"; in line 24, by striking "(4)" and inserting "(D)"; in line 26, by striking "(5)" and inserting "(E)"; in line 28, by striking "(6)" and inserting "(F)"; in line 30, by striking "(7)" and inserting "(G)"; in line 32, by striking "paragraphs (1) through (6);" and inserting "subparagraphs (A) through (F).

(2)";

On page 8, in line 20, by striking "paragraphs (1) through (4)" and inserting "subparagraphs (A) through (E)";

On page 13, in line 21, after the comma by inserting "and amendments thereto,";

On page 15, in line 2, after "as" by inserting "moderate-risk or"; also in line 2, after "high-risk" by inserting "offenders";

On page 16, following line 8, by inserting:

"Sec. 4. K.S.A. 2024 Supp. 38-2391 is hereby amended to read as follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 38-2368, and amendments thereto, the court may impose one or more of the sentencing alternatives under K.S.A. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 38-2369, and amendments thereto. The period of time ordered by the court shall not exceed the overall case length limit.

(b) Except as provided in subsection (c), the overall case length limit shall be calculated based on the adjudicated offense and the results of a risk and needs assessment, as follows:

(1) Offenders adjudicated for a misdemeanor may remain under the jurisdiction of the court for up to 12 months;

(2) low-risk and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months; and

(3) high-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months.

(c) There shall be no overall case length limit for a juvenile adjudicated for a felony which, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(d) When a juvenile is adjudicated for multiple counts, the maximum overall case length shall be calculated based on the most severe adjudicated count or any other adjudicated count at the court's discretion. The court shall not run multiple adjudicated counts consecutively.

(e) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run such cases concurrently.

(f) Upon expiration of the overall case length limit as defined in subsection (b), the court's jurisdiction terminates and shall not be extended, except as provided in subsection (g)(2).

(g) (1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 38-2361, and amendments thereto, the court shall establish a specific term of probation as specified in this subsection based on the most serious adjudicated count in combination with the results of a risk and needs assessment, as follows, except that the term of probation shall not exceed the overall case length limit:

(A) Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for a term up to six months;

(B) high-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for a term up to nine months; and

(C) high-risk offenders adjudicated for a felony may be placed on probation for a term up to 12 months.

(2) The court may extend the term of probation if a juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment and, if necessary, may extend the overall case length limit to allow for completion of such program when failure to complete such program is due to a repeated, intentional effort to delay by the juvenile as reported by the evidence-based services provider. The court may also extend the term of probation for good cause shown for one month for low-risk offenders, three months for moderate-risk offenders and six months for high-risk offenders. Prior to extension of the initial probationary term, the court shall find and enter into the written record the criteria permitting extension of probation. Extensions of probation and the overall case length limit shall only be granted incrementally. When the court extends the term of probation for a juvenile offender, the court services officer or community correctional services officer responsible for monitoring such juvenile offender shall record the reason given for extending probation. Court services officers shall report such records to the office of judicial administration, and community correctional services officers shall report such records to the

department of corrections. The office of judicial administration and the department of corrections shall report such recorded data to the Kansas juvenile justice oversight committee on a quarterly basis.

(3) The probation term limits do not apply to those offenders adjudicated for an offense which, if committed by an adult, would constitute an off-grid crime, rape as defined in K.S.A. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 21-5403, and amendments thereto. Such offenders may be placed on probation for a term consistent with the overall case length limit.

(4) The probation term limits and overall case length limits provided in this section shall be tolled during any time that the offender has absconded from supervision while on probation, and the time on such limits shall not start to run again until the offender is located and brought back to the jurisdiction.

(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 38-2361 and 38-2369, and amendments thereto, the court shall establish a specific term of detention. The term of detention shall not exceed the overall case length limit or the cumulative detention limit. Cumulative detention use shall be limited to a maximum of ~~45~~ 90 days over the course of the juvenile offender's case, except that there shall be no limit on cumulative detention for juvenile offenders adjudicated for a felony which, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(i) The provisions of this section shall apply upon disposition or 15 days after adjudication, whichever is sooner, unless the juvenile fails to appear for such juvenile's dispositional hearing. If a juvenile fails to appear at such juvenile's dispositional hearing, the probation term limits and overall case length limits provided in this section shall not apply until the juvenile is brought before the court for disposition in such juvenile's case.

(j) This section shall be a part of and supplemental to the revised Kansas juvenile justice code.";

Also on page 16, in line 11, by striking "40" and inserting "35 nor more than 45"; also in line 11, after "facilities" by inserting ", and not more than 15 beds in any single facility,"; following line 27, by inserting:

"Sec. 6. K.S.A. 75-52,161 is hereby amended to read as follows: 75-52,161. (a) There is hereby established the Kansas juvenile justice oversight committee for the purpose of overseeing the implementation of reform measures intended to improve the state's juvenile justice system.

(b) The Kansas juvenile justice oversight committee shall be composed of 21 members including the following individuals:

- (1) The governor or the governor's designee;
- (2) one member of the house of representatives appointed by the speaker of the house of representatives;
- (3) one member of the house of representatives appointed by the minority leader of the house of representatives;
- (4) one member of the senate appointed by the president of the senate;
- (5) one member of the senate appointed by the minority leader of the senate;
- (6) the secretary of corrections or the secretary's designee;
- (7) the secretary for children and families or the secretary's designee;
- (8) the commissioner of education or the commissioner's designee;
- (9) the deputy secretary of juvenile services at the department of corrections or the deputy's designee;
- (10) the director of community-based services at the department of corrections, or the director's designee;
- (11) two district court judges appointed by the chief justice of the supreme court;

- (12) one chief court services officer appointed by the chief justice of the supreme court;
 - (13) one member of the office of judicial administration appointed by the chief justice of the supreme court;
 - (14) one juvenile defense attorney appointed by the chief justice of the supreme court;
 - (15) one juvenile crime victim advocate appointed by the governor;
 - (16) one member from a local law enforcement agency appointed by the attorney general;
 - (17) one attorney from a prosecuting attorney's office appointed by the attorney general;
 - (18) one member from a community corrections agency appointed by the governor;
 - (19) one youth member of the Kansas advisory group on juvenile justice and delinquency prevention appointed by the chair of the Kansas advisory group on juvenile justice and delinquency prevention; and
 - (20) one director of a juvenile detention facility appointed by the attorney general.
- (c) The committee shall be appointed by September 1, 2016, and shall meet within 60 days after appointment and at least quarterly thereafter, upon notice by the chair. The committee shall select a chairperson and vice-chairperson, and 11 members shall be considered a quorum.
- (d) The committee shall perform the following duties:
- (1) Guide and evaluate the implementation of the changes in law relating to juvenile justice reform;
 - (2) define performance measures and recidivism;
 - (3) approve a plan developed by court services and the department of corrections instituting a uniform process for collecting and reviewing performance measures and recidivism, costs and outcomes of programs;
 - (4) consider utilizing the Kansas criminal justice information system for data collection

and analyses;

(5) ensure system integration and accountability;

(6) monitor the fidelity of implementation efforts to programs and training efforts;

(7) monitor any state expenditures that have been avoided by reductions in the number of youth placed in out-of-home placements to recommend to the governor and the legislature reinvestment of funds into:

(A) Evidence-based practices and programs in the community pursuant to K.S.A. 38-2302, and amendments thereto, for use by intake and assessment services, immediate intervention, probation and conditional release;

(B) training on evidence-based practices for juvenile justice system staff, including, but not limited to, training in cognitive behavioral therapies, family-centered therapies, substance abuse, sex offender therapy and other services that address a juvenile's risks and needs; and

(C) monitor the plan from the department of corrections for the prioritization of funds pursuant to K.S.A. 75-52,164(d), and amendments thereto;

(8) continue to review any additional topics relating to the continued improvement of the juvenile justice system, including:

(A) The confidentiality of juvenile records;

(B) the reduction of the financial burden placed on families involved in the juvenile justice system;

(C) juvenile due process rights, including, but not limited to, the development of rights to a speedy trial and preliminary hearings;

(D) the improvement of conditions of confinement for juveniles;

(E) the removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and

(F) the requirement for youth residential facilities to maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case;

(9) adhere to the goals of the juvenile justice code as provided in K.S.A. 38-2301, and amendments thereto;

(10) analyze and investigate gaps in the juvenile justice system and explore alternatives to out-of-home placement of juvenile offenders in youth residential facilities;

(11) identify evidence-based training models, needs and resources and make appropriate recommendations;

(12) study and create a plan to address the disparate treatment and availability of resources for juveniles with mental health needs in the juvenile justice system;~~and~~

(13) review portions of juvenile justice reform that require the department of corrections and the office of judicial administration to cooperate and make recommendations when there is not consensus between the two agencies;and

(14) monitor the impact and effectiveness of placement of juvenile offenders in non-foster home beds in youth residential facilities.

(e) The committee shall issue an annual report to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before November 30 each year starting in 2017. Such report shall include:

(1) An assessment of the progress made in implementation of juvenile justice reform efforts;

(2) a summary of the committee's efforts in fulfilling its duties as set forth in this section;

(3) an analysis of the recidivism data obtained by the committee pursuant to this section;

(4) a summary of the averted costs determined pursuant to this section and a recommendation for any reinvestment of the averted costs to fund services or programs to expand Kansas' continuum of alternatives for juveniles who would otherwise be placed in out-of-home placements;

(5) an analysis of detention risk-assessment data to determine if any disparate impacts resulted at any stage of the juvenile justice system based on race, sex, national origin or economic status;

(6) recommendations for continued improvements to the juvenile justice system;

(7) data pertaining to the completion of training on evidence-based practices in juvenile justice, including, but not limited to, the number of judges, district and county attorneys and appointed defense attorneys, that participated in training; and

(8) data received from the office of judicial administration and the department of corrections, pursuant to K.S.A. 38-2391, and amendments thereto, pertaining to extensions of probation for juvenile offenders and an analysis of such data to identify how probation extensions are being used and conclusions regarding the effectiveness of such extensions.

(f) After initial appointment, members appointed to this committee by the governor, the president of the senate, the speaker of the house of representatives or the chief justice of the supreme court pursuant to subsection (b), shall serve for a term of two years and shall be eligible for reappointment to such position. All members appointed to the committee shall serve until a successor has been duly appointed.

(g) The staff of the Kansas department of corrections shall provide such assistance as may be requested by the committee. To facilitate the organization of the meetings of the committee, the Kansas department of corrections shall provide administrative assistance.";

On page 18, following line 17, by inserting:

"Sec. 8. K.S.A. 75-7023 is hereby amended to read as follows: 75-7023. (a) The

secretary for children and families may contract with the secretary of corrections to provide for the juvenile intake and assessment system and programs for children in need of care. Except as provided further, the secretary of corrections shall promulgate rules and regulations for the juvenile intake and assessment system and programs concerning juvenile offenders. If the secretary contracts with the office of judicial administration to administer the juvenile intake and assessment system and programs concerning juvenile offenders, the supreme court administrative orders shall be in force until such contract ends and the rules and regulations concerning juvenile intake and assessment system and programs concerning juvenile offenders have been adopted.

(b) Except as otherwise provided in this subsection, records, reports and information obtained as a part of the juvenile intake and assessment process shall not be admitted into evidence in any proceeding and shall not be used in a child in need of care proceeding or a juvenile offender proceeding.

(1) Such records, reports and information may be used in a child in need of care proceeding for diagnostic and referral purposes and by the court in considering dispositional alternatives. If the records, reports or information are in regard to abuse or neglect, which is required to be reported under K.S.A. 38-2223, and amendments thereto, such records, reports or information may then be used for any purpose in a child in need of care proceeding pursuant to the revised Kansas code for care of children.

(2) Such records, reports and information may be used in a juvenile offender proceeding only if such records, reports and information are in regard to the possible trafficking of a runaway. Such records, reports and information in regard to the possible trafficking of a runaway shall be made available to the appropriate county or district attorney and the court, and shall be used only for diagnostic and referral purposes.

(c) Upon a juvenile being taken into custody pursuant to K.S.A. 38-2330, and amendments thereto, a juvenile intake and assessment worker shall complete the intake and

assessment process, making release and referral determinations as required by supreme court administrative order or district court rule, or except as provided above [in] rules and regulations established by the secretary of corrections.

(d) Except as provided in subsection (g) and in addition to any other information required by the supreme court administrative order, the secretary for children and families, the secretary of corrections or by the district court of such district, the juvenile intake and assessment worker shall collect the following information either in person or over two-way audio or audio-visual communication:

(1) The results of a standardized detention risk assessment tool pursuant to K.S.A. 38-2302, and amendments thereto, if detention is being considered for the juvenile, such as the problem oriented screening instrument for teens;

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

(3) abuse history;

(4) substance abuse history;

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

(6) educational history;

(7) medical history;

(8) family history; and

(9) the results of other assessment instruments as approved by the secretary.

(e) After completion of the intake and assessment process for such child, the intake and assessment worker shall make both a release and a referral determination:

(1) Release the child to the custody of the child's parent, other legal guardian or another appropriate adult.

(2) Conditionally release the child to the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that if the conditions are met, it

would be in the child's best interest to release the child to such child's parent, other legal guardian or another appropriate adult; and the intake and assessment worker has reason to believe that it might be harmful to the child to release the child to such child's parents, other legal guardian or another appropriate adult without imposing the conditions. The conditions may include, but not be limited to the alternatives listed in K.S.A. 38-2331(b), and amendments thereto, and the following:

- (A) Participation of the child in counseling;
 - (B) participation of members of the child's family in counseling;
 - (C) participation by the child, members of the child's family and other relevant persons in mediation;
 - (D) provision of outpatient treatment for the child;
 - (E) referral of the child and the child's family to the secretary for children and families for services and the agreement of the child and family to accept and participate in the services offered;
 - (F) referral of the child and the child's family to available community resources or services and the agreement of the child and family to accept and participate in the services offered;
 - (G) requiring the child and members of the child's family to enter into a behavioral contract which may provide for regular school attendance among other requirements; or
 - (H) any special conditions necessary to protect the child from future abuse or neglect.
- (3) Deliver the child to a shelter facility or a licensed attendant care center along with the law enforcement officer's written application for a maximum stay of up to 72 hours. The shelter facility or licensed attendant care facility shall then have custody as if the child had been directly delivered to the facility by the law enforcement officer pursuant to K.S.A. 38-2232, and amendments thereto.

(4) The intake and assessment worker shall also refer the juvenile's case to one of the following:

(A) An immediate intervention program pursuant to K.S.A. 38-2346(b), and amendments thereto;

(B) the county or district attorney for appropriate proceedings to be filed, with or without a recommendation that the juvenile be considered for alternative means of adjudication programs pursuant to K.S.A. 38-2389, and amendments thereto, or immediate intervention pursuant to K.S.A. 38-2346, and amendments thereto; or

(C) refer the child and family to the secretary for children and families for investigations in regard to the allegations.

(f) The secretary of corrections, in conjunction with the office of judicial administration, shall develop, implement and validate on the Kansas juvenile population, a statewide detention risk assessment tool.

(1) The assessment shall be conducted for each youth under consideration for detention and may only be conducted by a juvenile intake and assessment worker who has completed training to conduct the detention risk assessment tool.

(2) The secretary and the office of judicial administration shall establish cutoff scores determining eligibility for placement in a juvenile detention facility or for referral to a community-based alternative to detention and shall collect and report data regarding the use of the detention risk assessment tool.

(3) (A) The detention risk assessment tool includes an override function that may be approved by the court for use under certain circumstances. If approved by the court, the juvenile intake and assessment worker or the court may override the detention risk assessment tool score in order to direct placement in a short-term shelter facility, a community-based alternative to detention or, subject to K.S.A. 38-2331, and amendments thereto, a juvenile detention facility.

Such override must be documented, include a written explanation and receive approval from the director of the intake and assessment center or the court.

(B) The court shall approve an override function of the detention risk assessment tool for use when a juvenile is alleged to have possessed or used a firearm during the commission of an offense. In such an instance, the juvenile intake and assessment worker or the court shall place such juvenile in a juvenile detention facility.

(4) If a juvenile meets one or more eligibility criteria for detention or referral to a community-based alternative to detention, the person with authority to detain shall maintain discretion to release the juvenile if other less restrictive measures would be adequate.

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

(h) Every juvenile intake and assessment worker shall receive training in evidence-based practices, including, but not limited to:

- (1) Risk and needs assessments;
- (2) individualized diversions based on needs and strengths;
- (3) graduated responses;
- (4) family engagement;
- (5) trauma-informed care;
- (6) substance abuse;
- (7) mental health; and
- (8) special education.";

Also on page 18, in line 18, by striking the first "and" and inserting a comma; also in line 18, after "38-2399" by inserting ", 75-52,161 and 75-7023"; in line 19, after "Supp." by inserting "38-2391 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "increasing the cumulative detention limit for juvenile offenders and criminal penalties for juvenile offenders who use a firearm in the commission of an offense or who are repeat offenders;"; in line 5, after the semicolon by inserting "requiring the Kansas juvenile justice oversight committee to monitor the impact and effectiveness of such placements;"; in line 8, by striking the first "and" and inserting a comma; also in line 8, after "38-2399" by inserting ", 75-52,161 and 75-7023"; in line 9, after "Supp." by inserting "38-2391 and"; and the bill be passed as amended.

Chairperson