

HOUSE BILL No. 2453

By Joint Committee on Corrections and Juvenile Justice Oversight

1-10

1 AN ACT concerning children and minors; relating to the revised Kansas
2 juvenile justice code; immediate intervention program; fees; amending
3 K.S.A. 2017 Supp. 38-2346, 75-52,163, 75-7038 and 75-7044a and
4 repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2017 Supp. 38-2346 is hereby amended to read as
8 follows: 38-2346. (a) Each director of juvenile intake and assessment
9 services in collaboration with the county or district attorney shall adopt a
10 policy and establish guidelines for an immediate intervention process by
11 which a juvenile may avoid prosecution. The guidelines may include
12 information on any offenders beyond those enumerated in subsection (b)
13 (1) that shall be referred to immediate intervention. In addition to juvenile
14 intake and assessment services adopting policies and guidelines for the
15 immediate intervention process, the court, the county or district attorney,
16 the director of the intake and assessment center and other relevant
17 individuals or organizations, pursuant to a written agreement, shall
18 collaboratively develop local programs to:

19 (1) Provide for the direct referral of cases to immediate intervention
20 programs by the county or district attorney and the intake and assessment
21 worker.

22 (2) Allow intake and assessment workers to issue a summons, as
23 defined in subsection (e) and if juvenile intake and assessment services has
24 adopted appropriate policies and guidelines, allow law enforcement
25 officers to issue such a summons.

26 (3) Allow the intake and assessment centers and other immediate
27 intervention program providers to directly purchase services for the
28 juvenile and the juvenile's family.

29 (4) Allow intake and assessment workers to direct the release of a
30 juvenile prior to a detention hearing after the completion of the intake and
31 assessment process pursuant to K.S.A. 75-7023, and amendments thereto.

32 (b) (1) A juvenile who goes through the juvenile intake and
33 assessment process pursuant to K.S.A. 75-7023, and amendments thereto,
34 shall be offered the opportunity to participate in an immediate intervention
35 program and avoid prosecution if the juvenile is charged with a
36 misdemeanor that is not an offense described in article 55 of chapter 21 of

1 the Kansas Statutes Annotated, and amendments thereto, or a violation of
2 K.S.A. 2017 Supp. 21-5507, and amendments thereto, the juvenile has no
3 prior adjudications, and the offer is made pursuant to the guidelines
4 developed pursuant to this section. Participation in an immediate
5 intervention program is not required to be offered to a juvenile who was
6 originally charged with an offense which, if committed by an adult, would
7 constitute a felony and, as a result of a plea agreement reached between
8 the juvenile and prosecuting attorney, the charge has been amended to a
9 misdemeanor. A juvenile who has participated in an immediate
10 intervention program for a previous misdemeanor may, but is not required to,
11 be offered participation in an immediate intervention program.

12 (2) A juvenile may also participate in an immediate intervention
13 program if the juvenile is referred for immediate intervention by the
14 county or district attorney pursuant to subsection (d).

15 (3) Any juvenile referred to immediate intervention by juvenile intake
16 and assessment services shall, upon acceptance, work together with court
17 services, community corrections, juvenile intake and assessment services
18 or any other entity designated as a part of the written agreement in
19 subsection (a) to develop an immediate intervention plan. Such plan may
20 be supervised or unsupervised by any of the aforementioned entities. The
21 county or district attorneys office shall not be required to supervise
22 juveniles participating in an immediate intervention program.

23 (4) The immediate intervention plan shall last no longer than six
24 months from the date of referral, unless the plan requires the juvenile to
25 complete an evidence-based mental health or substance abuse program that
26 extends beyond the six-month period. In such case, the plan may be
27 extended up to two additional months.

28 (5) If the juvenile satisfactorily complies with the immediate
29 intervention plan, such juvenile shall be discharged and the charges
30 dismissed at the end of the time period specified in paragraph (4).

31 (6) If the juvenile fails to satisfactorily comply with the immediate
32 intervention plan, the case shall be referred to a multidisciplinary team for
33 review. The multidisciplinary team created pursuant to K.S.A. 2017 Supp.
34 38-2393, and amendments thereto, shall review the immediate intervention
35 plan within seven days and may revise and extend such plan or terminate
36 the case as successful. Such plan may be extended for no more than four
37 additional months.

38 (7) If the juvenile fails to satisfactorily comply with the revised plan
39 developed pursuant to paragraph (6), the intake and assessment worker,
40 court services officer or community corrections officer overseeing the
41 immediate intervention shall refer the case to the county or district
42 attorney for consideration.

43 (c) The parent of a juvenile may be required to be a part of the

1 immediate intervention program.

2 (d) For all juveniles that have fewer than two prior adjudications, the
3 county or district attorney shall review the case upon receipt of a
4 complaint to determine if the case should be referred for immediate
5 intervention or whether alternative means of adjudication should be
6 designated pursuant to K.S.A. 2017 Supp. 38-2389, and amendments
7 thereto. The county or district attorney shall consider any recommendation
8 of a juvenile intake and assessment worker, court services officer or
9 community corrections officer.

10 (e) "Summons" means a written order issued by an intake and
11 assessment worker or a law enforcement officer directing that a juvenile
12 appear before a designated court at a stated time and place to answer a
13 pending charge.

14 (f) *A fee in an amount not to exceed \$100 may be assessed as part of*
15 *the application to participate in an immediate intervention program. The*
16 *amount of such fee shall be determined by the appropriate juvenile*
17 *corrections advisory board in each judicial district. A juvenile who is*
18 *eligible for an immediate intervention shall not be denied participation in*
19 *such a program or terminated unsuccessfully due to an inability to pay fees*
20 *or other associated costs. If a juvenile is unable to pay such fees and costs,*
21 *the juvenile shall be allowed to pay a portion of the fee and costs,*
22 *participate in community service activities, or both, to satisfy the*
23 *obligation. Fees assessed from such a program shall be retained by the*
24 *program and shall not be used for any purpose, except be used only for*
25 *development and operation of the program.*

26 (g) If a juvenile substantially complies with an immediate
27 intervention program, charges in such juvenile's case shall not be filed.

28 (h) The policies and guidelines developed pursuant to subsection (a)
29 shall adhere to standards and procedures for immediate intervention
30 developed by the department of corrections pursuant to K.S.A. 2017 Supp.
31 38-2395, and amendments thereto, and be based on best practices.

32 (i) Nothing in this section shall require a juvenile to participate in an
33 immediate intervention program when the county or district attorney has
34 declined to continue with prosecution of an alleged offense.

35 Sec. 2. K.S.A. 2017 Supp. 75-52,163 is hereby amended to read as
36 follows: 75-52,163. (a) The department of corrections shall create a plan
37 and provide funding to incentivize the development of immediate
38 intervention programs established pursuant to K.S.A. 2017 Supp. 38-2346,
39 and amendments thereto.

40 (b) Funds allocated in accordance with such plan shall be used only
41 for the purpose of making grants to immediate intervention programs that
42 adhere to the standards and procedures for such programs developed
43 pursuant to K.S.A. 2017 Supp. 38-2395, and amendments thereto, and

1 shall be based on the number of persons served and such other
2 requirements as may be established by the department of corrections. The
3 plan may include requirements for grant applications, organizational
4 characteristics, reporting and auditing criteria and such other standards for
5 eligibility and accountability.

6 ~~(c) This section shall take effect on and after January 1, 2017. If a~~
7 ~~county imposes an application fee to participate in an immediate~~
8 ~~intervention program pursuant to K.S.A. 2017 Supp. 38-2346, and~~
9 ~~amendments thereto, such fees shall be used to supplement existing grant~~
10 ~~moneys and shall not be used to supplant the amount of the grant made to~~
11 ~~such county by the secretary of corrections.~~

12 Sec. 3. K.S.A. 2017 Supp. 75-7038 is hereby amended to read as
13 follows: 75-7038. The secretary of corrections may make grants to
14 counties for the development, implementation, operation and improvement
15 of juvenile community correctional services including, but not limited to:
16 Restitution programs; victim services programs; balanced and restorative
17 justice programs; preventive or diversionary correctional programs;
18 programs to reduce racial, geographic and other biases that may exist in
19 the juvenile justice system; community-based alternatives to detention;
20 and community juvenile corrections centers and facilities for the detention
21 or confinement, care or treatment of juveniles being detained or adjudged
22 to be a juvenile offender. *If a county imposes an application fee to*
23 *participate in an immediate intervention program pursuant to K.S.A. 2017*
24 *Supp. 38-2346, and amendments thereto, such fees shall be used to*
25 *supplement existing grant moneys and shall not be used to supplant the*
26 *amount of the grant made to such county by the secretary of corrections.*

27 Sec. 4. K.S.A. 2017 Supp. 75-7044a is hereby amended to read as
28 follows: 75-7044a. (a) The juvenile corrections advisory boards
29 established pursuant to K.S.A. 75-7044, and amendments thereto, shall
30 annually consider the availability of:

- 31 (1) Treatment programs;
- 32 (2) programs creating alternatives to incarceration for juvenile
33 offenders;
- 34 (3) mental health treatment; and
- 35 (4) the development of risk assessment tools, if they do not currently
36 exist, for use in determining pretrial release and probation supervision
37 levels.

38 *(b) The juvenile corrections advisory boards shall determine the*
39 *amount of the fee to be assessed as part of the application to participate in*
40 *an immediate intervention program pursuant to K.S.A. 2017 Supp. 38-*
41 *2346, and amendments thereto. The amount of such fee shall not exceed*
42 *\$100.*

43 ~~(b)(c)~~ The juvenile corrections advisory boards shall report to the

1 Kansas department of corrections and the Kansas juvenile justice oversight
2 committee by October 1 of each year detailing the costs of programs
3 needed in the judicial district the juvenile corrections advisory board
4 represents to reduce the out-of-home placement of juvenile offenders and
5 improve the rate of recidivism of juvenile offenders in such judicial
6 district.

7 Sec. 5. K.S.A. 2017 Supp. 38-2346, 75-52,163, 75-7038 and 75-
8 7044a 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.