

## HOUSE BILL No. 2633

By Committee on Corrections and Juvenile Justice

2-11

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1 AN ACT concerning children and minors; relating to juvenile offender  
2 assessments; revised Kansas code for care of children; revised Kansas  
3 juvenile justice code; sentencing; misdemeanor offenses; purchase or  
4 consumption of alcoholic beverage by minor; amending K.S.A. 2013  
5 Supp. 21-6607, 38-2202, 38-2360, 38-2369, 38-2370 and 41-727 and  
6 repealing the existing sections.

7

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

9 Section 1. K.S.A. 2013 Supp. 21-6607 is hereby amended to read as  
10 follows: 21-6607. (a) Except as required by subsection (c), nothing in this  
11 section shall be construed to limit the authority of the court to impose or  
12 modify any general or specific conditions of probation, suspension of  
13 sentence or assignment to a community correctional services program. The  
14 court services officer or community correctional services officer may  
15 recommend, and the court may order, the imposition of any conditions of  
16 probation, suspension of sentence or assignment to a community  
17 correctional services program. For crimes committed on or after July 1,  
18 1993, in presumptive nonprison cases, the court services officer or  
19 community correctional services officer may recommend, and the court  
20 may order, the imposition of any conditions of probation or assignment to  
21 a community correctional services program. The court may at any time  
22 order the modification of such conditions, after notice to the court services  
23 officer or community correctional services officer and an opportunity for  
24 such officer to be heard thereon. The court shall cause a copy of any such  
25 order to be delivered to the court services officer and the probationer or to  
26 the community correctional services officer and the community corrections  
27 participant, as the case may be. The provisions of K.S.A. 75-5291, and  
28 amendments thereto, shall be applicable to any assignment to a community  
29 correctional services program pursuant to this section.

30 (b) The court may impose any conditions of probation, suspension of  
31 sentence or assignment to a community correctional services program that  
32 the court deems proper, including, but not limited to, requiring that the  
33 defendant:

34 (1) Avoid such injurious or vicious habits, as directed by the court,  
35 court services officer or community correctional services officer;

36 (2) avoid such persons or places of disreputable or harmful character,

1 as directed by the court, court services officer or community correctional  
2 services officer;

3 (3) report to the court services officer or community correctional  
4 services officer as directed;

5 (4) permit the court services officer or community correctional  
6 services officer to visit the defendant at home or elsewhere;

7 (5) work faithfully at suitable employment insofar as possible;

8 (6) remain within the state unless the court grants permission to  
9 leave;

10 (7) pay a fine or costs, applicable to the offense, in one or several  
11 sums and in the manner as directed by the court;

12 (8) support the defendant's dependents;

13 (9) reside in a residential facility located in the community and  
14 participate in educational, counseling, work and other correctional or  
15 rehabilitative programs;

16 (10) perform community or public service work for local  
17 governmental agencies, private corporations organized not for profit, or  
18 charitable or social service organizations performing services for the  
19 community;

20 (11) perform services under a system of day fines whereby the  
21 defendant is required to satisfy fines, costs or reparation or restitution  
22 obligations by performing services for a period of days, determined by the  
23 court on the basis of ability to pay, standard of living, support obligations  
24 and other factors;

25 (12) participate in a house arrest program pursuant to K.S.A. 2013  
26 Supp. 21-6609, and amendments thereto;

27 (13) order the defendant to pay the administrative fee authorized by  
28 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

29 (14) in felony cases, except for violations of K.S.A. 8-1567, and  
30 amendments thereto, be confined in a county jail not to exceed 60 days,  
31 which need not be served consecutively.

32 (c) In addition to any other conditions of probation, suspension of  
33 sentence or assignment to a community correctional services program, the  
34 court shall order the defendant to comply with each of the following  
35 conditions:

36 (1) The defendant shall obey all laws of the United States, the state of  
37 Kansas and any other jurisdiction to the laws of which the defendant may  
38 be subject;

39 (2) make reparation or restitution to the aggrieved party for the  
40 damage or loss caused by the defendant's crime, in an amount and manner  
41 determined by the court and to the person specified by the court, unless the  
42 court finds compelling circumstances which would render a plan of  
43 restitution unworkable. If the court finds a plan of restitution unworkable,

1 the court shall state on the record in detail the reasons therefore;

2 (3) (A) pay a correctional supervision fee of \$60 if the person was  
3 convicted of a misdemeanor or a fee of \$120 if the person was convicted  
4 of a felony. In any case the amount of the correctional supervision fee  
5 specified by this paragraph may be reduced or waived by the judge if the  
6 person is unable to pay that amount;

7 (B) the correctional supervision fee imposed by this paragraph shall  
8 be charged and collected by the district court. The clerk of the district  
9 court shall remit all revenues received under this paragraph from  
10 correctional supervision fees to the state treasurer in accordance with the  
11 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
12 each such remittance, the state treasurer shall deposit the entire amount in  
13 the state treasury to the credit of the state general fund, a sum equal to  
14 41.67% of such remittance, and to the correctional supervision fund, a sum  
15 equal to 58.33% of such remittance;

16 (C) this paragraph shall apply to persons placed on felony or  
17 misdemeanor probation or released on misdemeanor parole to reside in  
18 Kansas and supervised by Kansas court services officers under the  
19 interstate compact for offender supervision; and

20 (D) this paragraph shall not apply to persons placed on probation or  
21 released on parole to reside in Kansas under the uniform act for out-of-  
22 state parolee supervision;

23 (4) reimburse the state general fund for all or a part of the  
24 expenditures by the state board of indigents' defense services to provide  
25 counsel and other defense services to the defendant. In determining the  
26 amount and method of payment of such sum, the court shall take account  
27 of the financial resources of the defendant and the nature of the burden that  
28 payment of such sum will impose. A defendant who has been required to  
29 pay such sum and who is not willfully in default in the payment thereof  
30 may at any time petition the court which sentenced the defendant to waive  
31 payment of such sum or of any unpaid portion thereof. If it appears to the  
32 satisfaction of the court that payment of the amount due will impose  
33 manifest hardship on the defendant or the defendant's immediate family,  
34 the court may waive payment of all or part of the amount due or modify  
35 the method of payment. The amount of attorney fees to be included in the  
36 court order for reimbursement shall be the amount claimed by appointed  
37 counsel on the payment voucher for indigents' defense services or the  
38 amount prescribed by the board of indigents' defense services  
39 reimbursement tables as provided in K.S.A. 22-4522, and amendments  
40 thereto, whichever is less;

41 (5) be subject to searches of the defendant's person, effects, vehicle,  
42 residence and property by a court services officer, a community  
43 correctional services officer and any other law enforcement officer based

1 on reasonable suspicion of the defendant violating conditions of probation  
2 or criminal activity; and

3 (6) be subject to random, but reasonable, tests for drug and alcohol  
4 consumption as ordered by a court services officer or community  
5 correctional services officer.

6 (d) Any law enforcement officer conducting a search pursuant to  
7 subsection (c)(5) shall submit a written report to the appropriate court  
8 services officer or community correctional services officer no later than  
9 the close of the next business day after such search. The written report  
10 shall include the facts leading to such search, the scope of such search and  
11 any findings resulting from such search.

12 (e) There is hereby established in the state treasury the correctional  
13 supervision fund. All moneys credited to the correctional supervision fund  
14 shall be used for: (1) The implementation of and training for use of a  
15 statewide, mandatory, standardized risk assessment tool or instrument as  
16 specified by the Kansas sentencing commission, pursuant to K.S.A. 75-  
17 5291, and amendments thereto; ; (2) *the implementation of and training*  
18 *for use of a statewide, mandatory, standardized risk assessment tool or*  
19 *instrument for juveniles alleged to be juvenile offenders;* and ~~for~~ (3)  
20 evidence-based *adult and juvenile* offender supervision programs by  
21 judicial branch personnel. If all expenditures for the program have been  
22 paid and moneys remain in the correctional supervision fund for a fiscal  
23 year, remaining moneys may be expended from the correctional  
24 supervision fund to support *adult and juvenile* offender supervision by  
25 court services officers. All expenditures from the correctional supervision  
26 fund shall be made in accordance with appropriation acts upon warrants of  
27 the director of accounts and reports issued pursuant to vouchers approved  
28 by the chief justice of the Kansas supreme court or by a person or persons  
29 designated by the chief justice.

30 Sec. 2. K.S.A. 2013 Supp. 38-2202 is hereby amended to read as  
31 follows: 38-2202. As used in the revised Kansas code for care of children,  
32 unless the context otherwise indicates:

33 (a) "Abandon" or "abandonment" means to forsake, desert or, without  
34 making appropriate provision for substitute care, cease providing care for  
35 the child.

36 (b) "Adult correction facility" means any public or private facility,  
37 secure or nonsecure, which is used for the lawful custody of accused or  
38 convicted adult criminal offenders.

39 (c) "Aggravated circumstances" means the abandonment, torture,  
40 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

41 (d) "Child in need of care" means a person less than 18 years of age  
42 at the time of filing of the petition or issuance of an ex parte protective  
43 custody order pursuant to K.S.A. 2013 Supp. 38-2242, and amendments

1 thereto, who:

- 2 (1) Is without adequate parental care, control or subsistence and the  
3 condition is not due solely to the lack of financial means of the child's  
4 parents or other custodian;
- 5 (2) is without the care or control necessary for the child's physical,  
6 mental or emotional health;
- 7 (3) has been physically, mentally or emotionally abused or neglected  
8 or sexually abused;
- 9 (4) has been placed for care or adoption in violation of law;
- 10 (5) has been abandoned or does not have a known living parent;
- 11 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,  
12 and amendments thereto;
- 13 (7) except in the case of a violation of ~~K.S.A. 41-727~~, subsection (j)  
14 (k) of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or  
15 subsection (a)(14) of K.S.A. 2013 Supp. 21-6301, and amendments  
16 thereto, or, except as provided in paragraph (12), does an act which, when  
17 committed by a person under 18 years of age, is prohibited by state law,  
18 city ordinance or county resolution but which is not prohibited when done  
19 by an adult;
- 20 (8) while less than 10 years of age, commits any act which if done by  
21 an adult would constitute the commission of a felony or misdemeanor as  
22 defined by K.S.A. 2013 Supp. 21-5102, and amendments thereto;
- 23 (9) is willfully and voluntarily absent from the child's home without  
24 the consent of the child's parent or other custodian;
- 25 (10) is willfully and voluntarily absent at least a second time from a  
26 court ordered or designated placement, or a placement pursuant to court  
27 order, if the absence is without the consent of the person with whom the  
28 child is placed or, if the child is placed in a facility, without the consent of  
29 the person in charge of such facility or such person's designee;
- 30 (11) has been residing in the same residence with a sibling or another  
31 person under 18 years of age, who has been physically, mentally or  
32 emotionally abused or neglected, or sexually abused;
- 33 (12) while less than 10 years of age commits the offense defined in  
34 subsection (a)(14) of K.S.A. 2013 Supp. 21-6301, and amendments  
35 thereto; or
- 36 (13) has had a permanent custodian appointed and the permanent  
37 custodian is no longer able or willing to serve.
- 38 (e) "Citizen review board" is a group of community volunteers  
39 appointed by the court and whose duties are prescribed by K.S.A. 2013  
40 Supp. 38-2207 and 38-2208, and amendments thereto.
- 41 (f) "Civil custody case" includes any case filed under chapter 23 of  
42 the Kansas Statutes Annotated, and amendments thereto, the Kansas  
43 family law code, article 11, of chapter 38 of the Kansas Statutes

1 Annotated, and amendments thereto, determination of parentage, article 21  
2 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,  
3 adoption and relinquishment act, or article 30 of chapter 59 of the Kansas  
4 Statutes Annotated, and amendments thereto, guardians and conservators.

5 (g) "Court-appointed special advocate" means a responsible adult  
6 other than an attorney guardian ad litem who is appointed by the court to  
7 represent the best interests of a child, as provided in K.S.A. 2013 Supp.  
8 38-2206, and amendments thereto, in a proceeding pursuant to this code.

9 (h) "Custody" whether temporary, protective or legal, means the  
10 status created by court order or statute which vests in a custodian, whether  
11 an individual or an agency, the right to physical possession of the child and  
12 the right to determine placement of the child, subject to restrictions placed  
13 by the court.

14 (i) "Extended out of home placement" means a child has been in the  
15 custody of the secretary and placed with neither parent for 15 of the most  
16 recent 22 months beginning 60 days after the date at which a child in the  
17 custody of the secretary was removed from the home.

18 (j) "Educational institution" means all schools at the elementary and  
19 secondary levels.

20 (k) "Educator" means any administrator, teacher or other professional  
21 or paraprofessional employee of an educational institution who has  
22 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and  
23 amendments thereto.

24 (l) "Harm" means physical or psychological injury or damage.

25 (m) "Interested party" means the grandparent of the child, a person  
26 with whom the child has been living for a significant period of time when  
27 the child in need of care petition is filed, and any person made an  
28 interested party by the court pursuant to K.S.A. 2013 Supp. 38-2241, and  
29 amendments thereto, or Indian tribe seeking to intervene that is not a party.

30 (n) "Jail" means:

31 (1) An adult jail or lockup; or

32 (2) a facility in the same building or on the same grounds as an adult  
33 jail or lockup, unless the facility meets all applicable standards and  
34 licensure requirements under law and there is: (A) Total separation of the  
35 juvenile and adult facility spatial areas such that there could be no  
36 haphazard or accidental contact between juvenile and adult residents in the  
37 respective facilities; (B) total separation in all juvenile and adult program  
38 activities within the facilities, including recreation, education, counseling,  
39 health care, dining, sleeping and general living activities; and (C) separate  
40 juvenile and adult staff, including management, security staff and direct  
41 care staff such as recreational, educational and counseling.

42 (o) "Juvenile detention facility" means any secure public or private  
43 facility used for the lawful custody of accused or adjudicated juvenile

1 offenders which must not be a jail.

2 (p) "Juvenile intake and assessment worker" means a responsible  
3 adult authorized to perform intake and assessment services as part of the  
4 intake and assessment system established pursuant to K.S.A. 75-7023, and  
5 amendments thereto.

6 (q) "Kinship care" means the placement of a child in the home of the  
7 child's relative or in the home of another adult with whom the child or the  
8 child's parent already has a close emotional attachment.

9 (r) "Law enforcement officer" means any person who by virtue of  
10 office or public employment is vested by law with a duty to maintain  
11 public order or to make arrests for crimes, whether that duty extends to all  
12 crimes or is limited to specific crimes.

13 (s) "Multidisciplinary team" means a group of persons, appointed by  
14 the court under K.S.A. 2013 Supp. 38-2228, and amendments thereto,  
15 which has knowledge of the circumstances of a child in need of care.

16 (t) "Neglect" means acts or omissions by a parent, guardian or person  
17 responsible for the care of a child resulting in harm to a child, or  
18 presenting a likelihood of harm, and the acts or omissions are not due  
19 solely to the lack of financial means of the child's parents or other  
20 custodian. Neglect may include, but shall not be limited to:

21 (1) Failure to provide the child with food, clothing or shelter  
22 necessary to sustain the life or health of the child;

23 (2) failure to provide adequate supervision of a child or to remove a  
24 child from a situation which requires judgment or actions beyond the  
25 child's level of maturity, physical condition or mental abilities and that  
26 results in bodily injury or a likelihood of harm to the child; or

27 (3) failure to use resources available to treat a diagnosed medical  
28 condition if such treatment will make a child substantially more  
29 comfortable, reduce pain and suffering, or correct or substantially diminish  
30 a crippling condition from worsening. A parent legitimately practicing  
31 religious beliefs who does not provide specified medical treatment for a  
32 child because of religious beliefs shall not for that reason be considered a  
33 negligent parent; however, this exception shall not preclude a court from  
34 entering an order pursuant to subsection (a)(2) of K.S.A. 2013 Supp. 38-  
35 2217, and amendments thereto.

36 (u) "Parent" when used in relation to a child or children, includes a  
37 guardian and every person who is by law liable to maintain, care for or  
38 support the child.

39 (v) "Party" means the state, the petitioner, the child, any parent of the  
40 child and an Indian child's tribe intervening pursuant to the Indian child  
41 welfare act.

42 (w) "Permanency goal" means the outcome of the permanency  
43 planning process which may be reintegration, adoption, appointment of a

1 permanent custodian or another planned permanent living arrangement.

2 (x) "Permanent custodian" means a judicially approved permanent  
3 guardian of a child pursuant to K.S.A. 2013 Supp. 38-2272, and  
4 amendments thereto.

5 (y) "Physical, mental or emotional abuse" means the infliction of  
6 physical, mental or emotional harm or the causing of a deterioration of a  
7 child and may include, but shall not be limited to, maltreatment or  
8 exploiting a child to the extent that the child's health or emotional well-  
9 being is endangered.

10 (z) "Placement" means the designation by the individual or agency  
11 having custody of where and with whom the child will live.

12 (aa) "Relative" means a person related by blood, marriage or adoption  
13 but, when referring to a relative of a child's parent, does not include the  
14 child's other parent.

15 (bb) "Secretary" means the secretary of the department for children  
16 and families or the secretary's designee.

17 (cc) "Secure facility" means a facility, other than a staff secure  
18 facility which is operated or structured so as to ensure that all entrances  
19 and exits from the facility are under the exclusive control of the staff of the  
20 facility, whether or not the person being detained has freedom of  
21 movement within the perimeters of the facility, or which relies on locked  
22 rooms and buildings, fences or physical restraint in order to control  
23 behavior of its residents. No secure facility shall be in a city or county jail.

24 (dd) "Sexual abuse" means any contact or interaction with a child in  
25 which the child is being used for the sexual stimulation of the perpetrator,  
26 the child or another person. Sexual abuse shall include allowing,  
27 permitting or encouraging a child to engage in the sale of sexual relations  
28 or commercial sexual exploitation of a child, or to be photographed, filmed  
29 or depicted in pornographic material.

30 (ee) "Shelter facility" means any public or private facility or home,  
31 other than a juvenile detention facility or staff secure facility, that may be  
32 used in accordance with this code for the purpose of providing either  
33 temporary placement for children in need of care prior to the issuance of a  
34 dispositional order or longer term care under a dispositional order.

35 (ff) "Staff secure facility" means a facility described in K.S.A. 2013  
36 Supp. 65-535, and amendments thereto: (1) That does not include  
37 construction features designed to physically restrict the movements and  
38 activities of juvenile residents who are placed therein; (2) that may  
39 establish reasonable rules restricting entrance to and egress from the  
40 facility; and (3) in which the movements and activities of individual  
41 juvenile residents may, for treatment purposes, be restricted or subject to  
42 control through the use of intensive staff supervision. No staff secure  
43 facility shall be in a city or county jail.

1 (gg) "Transition plan" means, when used in relation to a youth in the  
2 custody of the secretary, an individualized strategy for the provision of  
3 medical, mental health, education, employment and housing supports as  
4 needed for the adult and, if applicable, for any minor child of the adult, to  
5 live independently and specifically provides for the supports and any  
6 services for which an adult with a disability is eligible including, but not  
7 limited to, funding for home and community based services waivers.

8 (hh) "Youth residential facility" means any home, foster home or  
9 structure which provides 24-hour-a-day care for children and which is  
10 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes  
11 Annotated, and amendments thereto.

12 Sec. 3. K.S.A. 2013 Supp. 38-2360 is hereby amended to read as  
13 follows: 38-2360. (a) At any time after the juvenile has been adjudicated to  
14 be a juvenile offender, the court shall order one or more of the tools  
15 described in this subsection to be submitted to assist the court unless the  
16 court finds that adequate and current information is available from a  
17 previous investigation, report or other sources:

18 (1) An evaluation and written report by a mental health or a qualified  
19 professional stating the psychological or emotional development or needs  
20 of the juvenile. The court also may order a report from any mental health  
21 or qualified professional who has previously evaluated the juvenile stating  
22 the psychological or emotional development needs of the juvenile. If the  
23 court orders an evaluation as provided in this section, a parent of the  
24 juvenile shall have the right to obtain an independent evaluation at the  
25 expense of the parent.

26 (2) A report of the medical condition and needs of the juvenile. The  
27 court also may order a report from any physician who has been attending  
28 the juvenile, stating the diagnosis, condition and treatment afforded the  
29 juvenile.

30 (3) An educational needs assessment of the juvenile from the chief  
31 administrative officer of the school which the juvenile attends or attended  
32 to provide to the court information that is readily available which the  
33 school officials feel would properly indicate the educational needs of the  
34 juvenile. The educational needs assessment may include a meeting  
35 involving any of the following: (A) The juvenile's parents; (B) the  
36 juvenile's teacher or teachers; (C) the school psychologist; (D) a school  
37 special services representative; (E) a representative of the commissioner;  
38 (F) the juvenile's court appointed special advocate; (G) the juvenile's foster  
39 parents or legal guardian; and (H) other persons that the chief  
40 administrative officer of the school, or the officer's designee, deems  
41 appropriate.

42 (4) Any other presentence investigation and report from a court  
43 services officer which includes: (A) The circumstances of the offense; (B)

1 the attitude of the complainant, victim or the victim's family; (C) the  
2 record of juvenile offenses; (D) the social history of the juvenile; ~~and~~ (E)  
3 the present condition of the juvenile; *and (F) a summary of the results*  
4 *from a standardized risk assessment tool or instrument.* Except where  
5 specifically prohibited by law, all local governmental public and private  
6 educational institutions and state agencies shall furnish to the officer  
7 conducting the predispositional investigation the records the officer  
8 requests. Predispositional investigations shall contain other information  
9 prescribed by the court.

10 (5) The court in its discretion may direct that the parents submit a  
11 domestic relations affidavit.

12 (b) Expenses for post adjudication tools may be waived or assessed  
13 pursuant to subsection (c)(2) of K.S.A. 2013 Supp. 38-2314, and  
14 amendments thereto.

15 (c) *Except as otherwise prohibited by law or policy,* the court shall  
16 make any of the reports ordered pursuant to subsection (a) available to the  
17 attorneys and shall allow the attorneys a reasonable time to review the  
18 report before ordering the sentencing of the juvenile offender.

19 (d) At any time prior to sentencing, the judge, at the request of a  
20 party, shall hear additional evidence as to proposals for reasonable and  
21 appropriate sentencing of the case.

22 Sec. 4. K.S.A. 2013 Supp. 38-2369 is hereby amended to read as  
23 follows: 38-2369. (a) For the purpose of committing juvenile offenders to  
24 a juvenile correctional facility, the following placements shall be applied  
25 by the judge in felony ~~or misdemeanor~~ cases. If used, the court shall  
26 establish a specific term of commitment as specified in this subsection,  
27 unless the judge conducts a departure hearing and finds substantial and  
28 compelling reasons to impose a departure sentence as provided in K.S.A.  
29 2013 Supp. 38-2371, and amendments thereto.

30 (1) *Violent Offenders.* (A) The violent offender I is defined as an  
31 offender adjudicated as a juvenile offender for an offense which, if  
32 committed by an adult, would constitute an off-grid felony. Offenders in  
33 this category may be committed to a juvenile correctional facility for a  
34 minimum term of 60 months and up to a maximum term of the offender  
35 reaching the age of 22 years, six months. The aftercare term for this  
36 offender is set at a minimum term of six months and up to a maximum  
37 term of the offender reaching the age of 23 years.

38 (B) The violent offender II is defined as an offender adjudicated as a  
39 juvenile offender for an offense which, if committed by an adult, would  
40 constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this  
41 category may be committed to a juvenile correctional facility for a  
42 minimum term of 24 months and up to a maximum term of the offender  
43 reaching the age 22 years, six months. The aftercare term for this offender

1 is set at a minimum term of six months and up to a maximum term of the  
2 offender reaching the age of 23 years.

3 (2) *Serious Offenders.* (A) The serious offender I is defined as an  
4 offender adjudicated as a juvenile offender for an offense:

5 (i) Which, if committed by an adult, would constitute a nondrug  
6 severity level 4, 5 or 6 person felony;

7 (ii) committed prior to July 1, 2012, which, if committed by an adult  
8 prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony;  
9 or

10 (iii) committed on or after July 1, 2012, which, if committed by an  
11 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or  
12 3 felony.

13 Offenders in this category may be committed to a juvenile correctional  
14 facility for a minimum term of 18 months and up to a maximum term of 36  
15 months. The aftercare term for this offender is set at a minimum term of  
16 six months and up to a maximum term of 24 months.

17 (B) The serious offender II is defined as an offender adjudicated as a  
18 juvenile offender for an offense which, if committed by an adult, would  
19 constitute a nondrug severity level 7, 8, 9 or 10 person felony with one  
20 prior felony adjudication. *Offenders in this category shall receive a*  
21 *presumptive probation sentence, unless the judge conducts a departure*  
22 *hearing and finds substantial and compelling reasons to impose a*  
23 *departure sentence as provided in K.S.A. 2013 Supp. 38-2371, and*  
24 *amendments thereto. If a departure sentence is imposed, offenders in this*  
25 *category may be committed to a juvenile correctional facility for a*  
26 *minimum term of nine months and up to a maximum term of 18 months.*  
27 *The aftercare term for this offender is set at a minimum term of six months*  
28 *and up to a maximum term of 24 months.*

29 (3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is  
30 defined as an offender adjudicated as a juvenile offender for an offense:

31 (i) Which, if committed by an adult, would constitute one present  
32 nonperson felony adjudication and two prior felony adjudications;

33 (ii) committed prior to July 1, 2012, which, if committed by an adult  
34 prior to July 1, 2012, would constitute one present drug severity level 3  
35 felony adjudication and two prior felony adjudications; or

36 (iii) committed on or after July 1, 2012, which, if committed by an  
37 adult on or after July 1, 2012, would constitute one present drug severity  
38 level 4 felony adjudication and two prior felony adjudications.

39 *Offenders in this category shall receive a presumptive probation*  
40 *sentence, unless the judge conducts a departure hearing and finds*  
41 *substantial and compelling reasons to impose a departure sentence as*  
42 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*  
43 *departure sentence is imposed, offenders in this category may be*

1 committed to a juvenile correctional facility for a minimum term of six  
2 months and up to a maximum term of 18 months. The aftercare term for  
3 this offender is set at a minimum term of six months and up to a maximum  
4 term of 12 months.

5 (B) The chronic offender II, escalating felon is defined as an offender  
6 adjudicated as a juvenile offender for an offense:

7 (i) Which, if committed by an adult, would constitute one present  
8 felony adjudication and either two prior misdemeanor adjudications or one  
9 prior person or nonperson felony adjudication;

10 (ii) which, if committed by an adult, would constitute one present  
11 felony adjudication and two prior drug severity level 4 or 5 adjudications;

12 (iii) committed prior to July 1, 2012, which, if committed by an adult  
13 prior to July 1, 2012, would constitute one present drug severity level 3  
14 felony adjudication and either two prior misdemeanor adjudications or one  
15 prior person or nonperson felony adjudication;

16 (iv) committed prior to July 1, 2012, which, if committed by an adult  
17 prior to July 1, 2012, would constitute one present drug severity level 3  
18 felony adjudication and two prior drug severity level 4 or 5 adjudications;

19 (v) committed on or after July 1, 2012, which, if committed by an  
20 adult on or after July 1, 2012, would constitute one present drug severity  
21 level 4 felony adjudication and either two prior misdemeanor adjudications  
22 or one prior person or nonperson felony adjudication; or

23 (vi) committed on or after July 1, 2012, which, if committed by an  
24 adult on or after July 1, 2012, would constitute one present drug severity  
25 level 4 felony adjudication and two prior drug severity level 4 or 5  
26 adjudications.

27 *Offenders in this category shall receive a presumptive probation*  
28 *sentence, unless the judge conducts a departure hearing and finds*  
29 *substantial and compelling reasons to impose a departure sentence as*  
30 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*  
31 *departure sentence is imposed, offenders in this category may be*  
32 *committed to a juvenile correctional facility for a minimum term of six*  
33 *months and up to a maximum term of 18 months. The aftercare term for*  
34 *this offender is set at a minimum term of six months and up to a maximum*  
35 *term of 12 months.*

36 (C) The chronic offender III, escalating misdemeanant is defined as  
37 an offender adjudicated as a juvenile offender for an offense:

38 ~~(i) Which, if committed by an adult, would constitute one present~~  
39 ~~misdemeanor adjudication and either two prior misdemeanor adjudications~~  
40 ~~or one prior person or nonperson felony adjudication and two placement~~  
41 ~~failures;~~

42 ~~(ii) which, if committed by an adult, would constitute one present~~  
43 ~~misdemeanor adjudication and two prior drug severity level 4 or 5 felony~~

1 ~~adjudications and two placement failures;~~

2 ~~(iii) (i)~~ Which, if committed by an adult, would constitute one present  
3 drug severity level 4 felony adjudication and either two prior misdemeanor  
4 adjudications or one prior person or nonperson felony adjudication and  
5 two placement failures;

6 ~~(iv) (ii)~~ which, if committed by an adult, would constitute one present  
7 drug severity level 4 felony adjudication and two prior drug severity level  
8 4 or 5 felony adjudications and two placement failures;

9 ~~(v) (iii)~~ committed on or after July 1, 2012, which, if committed by an  
10 adult on or after July 1, 2012, would constitute one present drug severity  
11 level 5 felony adjudication and either two prior misdemeanor adjudications  
12 or one prior person or nonperson felony adjudication and two placement  
13 failures; or

14 ~~(vi) (iv)~~ committed on or after July 1, 2012, which, if committed by  
15 an adult on or after July 1, 2012, would constitute one present drug  
16 severity level 5 felony adjudication and two prior drug severity level 4 or 5  
17 adjudications and two placement failures.

18 *Offenders in this category shall receive a presumptive probation*  
19 *sentence, unless the judge conducts a departure hearing and finds*  
20 *substantial and compelling reasons to impose a departure sentence as*  
21 *provided in K.S.A. 2013 Supp. 38-2371, and amendments thereto. If a*  
22 *departure sentence is imposed, offenders in this category may be*  
23 *committed to a juvenile correctional facility for a minimum term of three*  
24 *months and up to a maximum term of six months. The aftercare term for*  
25 *this offender is set at a minimum term of three months and up to a*  
26 *maximum term of six months.*

27 (4) *Conditional Release Violators.* Upon finding the juvenile violated  
28 a requirement or requirements of conditional release, the court may:

29 (A) Subject to the limitations in subsection (a) of K.S.A. 2013 Supp.  
30 38-2366, and amendments thereto, commit the offender directly to a  
31 juvenile correctional facility for a minimum term of three months and up  
32 to a maximum term of six months. The aftercare term for this offender  
33 shall be a minimum of two months and a maximum of six months, or the  
34 length of the aftercare originally ordered, whichever is longer.

35 (B) Enter one or more of the following orders:

36 (i) Recommend additional conditions be added to those of the  
37 existing conditional release.

38 (ii) Order the offender to serve a period of sanctions pursuant to  
39 subsection (f) of K.S.A. 2013 Supp. 38-2361, and amendments thereto.

40 (iii) Revoke or restrict the juvenile's driving privileges as described in  
41 subsection (c) of K.S.A. 2013 Supp. 38-2361, and amendments thereto.

42 (C) Discharge the offender from the custody of the commissioner,  
43 release the commissioner from further responsibilities in the case and enter

1 any other appropriate orders.

2 (b) As used in this section:

3 (1) "Placement failure" means a juvenile offender in the custody of  
4 the juvenile justice authority has significantly failed the terms of  
5 conditional release or has been placed out-of-home in a community  
6 placement accredited by the commissioner and has significantly violated  
7 the terms of that placement or violated the terms of probation.

8 (2) "Adjudication" includes out-of-state juvenile adjudications. An  
9 out-of-state offense, which if committed by an adult would constitute the  
10 commission of a felony or misdemeanor, shall be classified as either a  
11 felony or a misdemeanor according to the adjudicating jurisdiction. If an  
12 offense which if committed by an adult would constitute the commission  
13 of a felony is a felony in another state, it will be deemed a felony in  
14 Kansas. The state of Kansas shall classify the offense, which if committed  
15 by an adult would constitute the commission of a felony or misdemeanor,  
16 as person or nonperson. In designating such offense as person or  
17 nonperson, reference to comparable offenses shall be made. If the state of  
18 Kansas does not have a comparable offense, the out-of-state adjudication  
19 shall be classified as a nonperson offense.

20 (c) All appropriate community placement options shall have been  
21 exhausted before a chronic offender III, escalating misdemeanant shall be  
22 placed in a juvenile correctional facility. A court finding shall be made  
23 acknowledging that appropriate community placement options have been  
24 pursued and no such option is appropriate.

25 (d) The commissioner shall work with the community to provide on-  
26 going support and incentives for the development of additional community  
27 placements to ensure that the chronic offender III, escalating  
28 misdemeanant sentencing category is not frequently utilized.

29 (e) Any juvenile offender committed to a juvenile correctional facility  
30 who is adjudicated for an offense committed while such juvenile was  
31 committed to a juvenile correctional facility, may be adjudicated to serve a  
32 consecutive term of commitment in a juvenile correctional facility.

33 Sec. 5. K.S.A. 2013 Supp. 38-2370 is hereby amended to read as  
34 follows: 38-2370. (a) For purposes of determining release of a juvenile  
35 offender, a system shall be developed whereby good behavior is the  
36 expected norm and negative behavior will be punished.

37 (b) The commissioner shall adopt rules and regulations to carry out  
38 the provisions of this section regarding good time calculations. Such rules  
39 and regulations shall provide circumstances upon which a juvenile  
40 offender may earn good time credits through participation in programs  
41 which may include, but not be limited to, education programs, work  
42 participation, treatment programs, vocational programs, activities and  
43 behavior modification. Such good time credits may also include the

1 juvenile offender's willingness to examine and confront the past behavior  
2 patterns that resulted in the commission of the juvenile's offense.

3 ~~(e) If the placement sentence established in K.S.A. 2013 Supp. 38-~~  
4 ~~2369, and amendments thereto, is used by the court, the juvenile offender~~  
5 ~~shall serve no less than the minimum term authorized under the specific~~  
6 ~~category of such placement sentence.~~

7 Sec. 6. K.S.A. 2013 Supp. 41-727 is hereby amended to read as  
8 follows: 41-727. (a) Except with regard to serving of alcoholic liquor or  
9 cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a,  
10 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and  
11 subject to any rules and regulations adopted pursuant to such statutes, no  
12 person under 21 years of age shall possess, consume, obtain, purchase or  
13 attempt to obtain or purchase alcoholic liquor or cereal malt beverage  
14 except as authorized by law.

15 (b) Violation of this section by a person 18 or more years of age but  
16 less than 21 years of age is a class C misdemeanor for which the minimum  
17 fine is \$200.

18 (c) Any person less than 18 years of age who violates this section is a  
19 ~~juvenile offender child in need of care~~ under the revised Kansas juvenile  
20 ~~justice code for care of children. Upon adjudication thereof and as a~~  
21 ~~condition of disposition, the court shall require the offender to pay a fine~~  
22 ~~of not less than \$200 nor more than \$500.~~

23 (d) In addition to any other penalty provided for a violation of this  
24 section: (1) The court may order the offender to do either or both of the  
25 following:

26 (A) Perform 40 hours of public service; or

27 (B) attend and satisfactorily complete a suitable educational or  
28 training program dealing with the effects of alcohol or other chemical  
29 substances when ingested by humans.

30 (2) Upon a first conviction of a violation of this section, the court  
31 shall order the division of vehicles to suspend the driving privilege of such  
32 offender for 30 days. Upon receipt of the court order, the division shall  
33 notify the violator and suspend the driving privileges of the violator for 30  
34 days whether or not that person has a driver's license.

35 (3) Upon a second conviction of a violation of this section, the court  
36 shall order the division of vehicles to suspend the driving privilege of such  
37 offender for 90 days. Upon receipt of the court order, the division shall  
38 notify the violator and suspend the driving privileges of the violator for 90  
39 days whether or not that person has a driver's license.

40 (4) Upon a third or subsequent conviction of a violation of this  
41 section, the court shall order the division of vehicles to suspend the driving  
42 privilege of such offender for one year. Upon receipt of the court order, the  
43 division shall notify the violator and suspend the driving privileges of the

1 violator for one year whether or not that person has a driver's license.

2 (e) This section shall not apply to the possession and consumption of  
3 cereal malt beverage by a person under the legal age for consumption of  
4 cereal malt beverage when such possession and consumption is permitted  
5 and supervised, and such beverage is furnished, by the person's parent or  
6 legal guardian.

7 (f) Any city ordinance or county resolution prohibiting the acts  
8 prohibited by this section shall provide a minimum penalty which is not  
9 less than the minimum penalty prescribed by this section.

10 (g) A law enforcement officer may request a person under 21 years of  
11 age to submit to a preliminary screening test of the person's breath to  
12 determine if alcohol has been consumed by such person if the officer has  
13 reasonable grounds to believe that the person has alcohol in the person's  
14 body except that, if the officer has reasonable grounds to believe the  
15 person has been operating or attempting to operate a vehicle under the  
16 influence of alcohol, the provisions of K.S.A. 8-1012, and amendments  
17 thereto, shall apply. No waiting period shall apply to the use of a  
18 preliminary breath test under this subsection. If the person submits to the  
19 test, the results shall be used for the purpose of assisting law enforcement  
20 officers in determining whether an arrest should be made for violation of  
21 this section. A law enforcement officer may arrest a person based in whole  
22 or in part upon the results of a preliminary screening test. Such results or a  
23 refusal to submit to a preliminary breath test shall be admissible in court in  
24 any criminal action, but are not per se proof that the person has violated  
25 this section. The person may present to the court evidence to establish the  
26 positive preliminary screening test was not the result of a violation of this  
27 section.

28 ~~(h) (1) Any person less than 18 years of age who violates only this~~  
29 ~~section shall not be detained or placed in a jail, as defined in K.S.A. 2013~~  
30 ~~Supp. 38-2302, and amendments thereto.~~

31 ~~(2) Any person less than 18 years of age who is arrested only for a~~  
32 ~~violation of this section shall not be detained or placed in a juvenile~~  
33 ~~detention facility, as defined in K.S.A. 2013 Supp. 38-2302, and~~  
34 ~~amendments thereto, for a period exceeding 24 hours, excluding~~  
35 ~~Saturdays, Sundays and legal holidays.~~

36 ~~(3) Any person less than 18 years of age at the time of the offense~~  
37 ~~who is adjudicated only of a violation of this section shall not be detained~~  
38 ~~in a jail, juvenile detention facility, juvenile correctional facility or~~  
39 ~~sanctions house, as defined in K.S.A. 2013 Supp. 38-2302, and~~  
40 ~~amendments thereto.~~

41 ~~(†) (h)~~ This section shall be part of and supplemental to the Kansas  
42 liquor control act.

43 Sec. 7. K.S.A. 2013 Supp. 21-6607, 38-2202, 38-2360, 38-2369, 38-

1 2370 and 41-727 are hereby repealed.

2 Sec. 8. This act shall take effect and be in force from and after its  
3 publication in the statute book.