

SENATE BILL No. 504

By Committee on Federal and State Affairs

2-12

1 AN ACT concerning children and minors; relating to the revised Kansas
2 juvenile justice code; prohibiting the use of any prone restraint on a
3 juvenile who is in custody at a juvenile detention facility or juvenile
4 correctional facility or being assessed as part of the juvenile intake and
5 assessment system; amending K.S.A. 2023 Supp. 38-2302 and
6 repealing the existing section.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) No person shall use any prone restraint on a
10 juvenile who is:

11 (1) In custody at a juvenile correctional facility or juvenile detention
12 facility; or

13 (2) being assessed as part of the juvenile intake and assessment
14 system established pursuant to K.S.A. 75-7023, and amendments thereto.

15 (b) This section shall be a part of and supplemental to the revised
16 Kansas juvenile justice code.

17 Sec. 2. K.S.A. 2023 Supp. 38-2302 is hereby amended to read as
18 follows: 38-2302. As used in this code, unless the context otherwise
19 requires:

20 (a) "Commissioner" means the secretary of corrections or the
21 secretary's designee.

22 (b) "Community supervision officer" means any officer from court
23 services, community corrections or any other individual authorized to
24 supervise a juvenile on an immediate intervention, probation or
25 conditional release.

26 (c) "Conditional release" means release from a term of commitment
27 in a juvenile correctional facility for an aftercare term pursuant to K.S.A.
28 38-2369, and amendments thereto, under conditions established by the
29 secretary of corrections.

30 (d) "Court-appointed special advocate" means a responsible adult,
31 other than an attorney appointed pursuant to K.S.A. 38-2306, and
32 amendments thereto, who is appointed by the court to represent the best
33 interests of a child, as provided in K.S.A. 38-2307, and amendments
34 thereto, in a proceeding pursuant to this code.

35 (e) "Detention risk assessment tool" means a risk assessment
36 instrument adopted pursuant to K.S.A. 75-7023(f), and amendments

1 thereto, used to identify factors shown to be statistically related to a
2 juvenile's risk of failing to appear in court or reoffending pre-adjudication
3 and designed to assist in making detention determinations.

4 (f) "Educational institution" means all schools at the elementary and
5 secondary levels.

6 (g) "Educator" means any administrator, teacher or other professional
7 or paraprofessional employee of an educational institution who has
8 exposure to a pupil specified in K.S.A. 72-6143(a)(1) through (5), and
9 amendments thereto.

10 (h) "Evidence-based" means practices, policies, procedures and
11 programs demonstrated by research to produce reduction in the likelihood
12 of reoffending.

13 (i) "Graduated responses" means a system of community-based
14 sanctions and incentives developed pursuant to K.S.A. 75-7023(h) and 38-
15 2392, and amendments thereto, used to address violations of immediate
16 interventions, terms and conditions of probation and conditional release
17 and to incentivize positive behavior.

18 (j) "Immediate intervention" means all programs or practices
19 developed by the county to hold juvenile offenders accountable while
20 allowing such offenders to be diverted from formal court processing
21 pursuant to K.S.A. 38-2346, and amendments thereto.

22 (k) "Institution" means the Larned juvenile correctional facility and
23 the Kansas juvenile correctional complex.

24 (l) "Investigator" means an employee of the department of corrections
25 assigned by the secretary of corrections with the responsibility for
26 investigations concerning employees at the juvenile correctional facilities
27 and juveniles in the custody of the secretary of corrections at a juvenile
28 correctional facility.

29 (m) "Jail" means:

30 (1) An adult jail or lockup; or

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

41 (n) "Juvenile" means a person to whom one or more of the following
42 applies, the person: (1) Is 10 or more years of age but less than 18 years of
43 age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as

1 a juvenile offender and continues to be subject to the jurisdiction of the
2 court.

3 (o) "Juvenile correctional facility" means a facility operated by the
4 secretary of corrections for the commitment of juvenile offenders.

5 (p) "Juvenile corrections officer" means a certified employee of the
6 department of corrections working at a juvenile correctional facility
7 assigned by the secretary of corrections with responsibility for maintaining
8 custody, security and control of juveniles in the custody of the secretary of
9 corrections at a juvenile correctional facility.

10 (q) "Juvenile detention facility" means a public or private facility
11 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
12 Annotated, and amendments thereto, which is used for the lawful custody
13 of alleged or adjudicated juvenile offenders.

14 (r) "Juvenile intake and assessment worker" means a responsible
15 adult trained and authorized to perform intake and assessment services as
16 part of the intake and assessment system established pursuant to K.S.A.
17 75-7023, and amendments thereto.

18 (s) "Juvenile offender" means a person who commits an offense while
19 10 or more years of age but less than 18 years of age which if committed
20 by an adult would constitute the commission of a felony or misdemeanor
21 as defined by K.S.A. 21-5102, and amendments thereto, or who violates
22 the provisions of K.S.A. 41-727, 74-8810(j) or 21-6301(a)(14), and
23 amendments thereto, but does not include:

24 (1) A person 14 or more years of age who commits a traffic offense,
25 as defined in K.S.A. 8-2117(d), and amendments thereto;

26 (2) a person 16 years of age or over who commits an offense defined
27 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
28 *or*

29 (3) a person under 18 years of age who previously has been:

30 (A) Convicted as an adult under the Kansas criminal code;

31 (B) sentenced as an adult under the Kansas criminal code following
32 termination of status as an extended jurisdiction juvenile pursuant to
33 K.S.A. 38-2364, and amendments thereto; or

34 (C) convicted or sentenced as an adult in another state or foreign
35 jurisdiction under substantially similar procedures described in K.S.A. 38-
36 2347, and amendments thereto, or because of attaining the age of majority
37 designated in that state or jurisdiction.

38 (t) "Law enforcement officer" means any person who by virtue of that
39 person's office or public employment is vested by law with a duty to
40 maintain public order or to make arrests for crimes, whether that duty
41 extends to all crimes or is limited to specific crimes.

42 (u) "Overall case length limit" when used in relation to a juvenile
43 adjudicated a juvenile offender means the maximum jurisdiction of the

1 court following disposition on an individual case. Pursuant to K.S.A. 38-
2 2304, and amendments thereto, the case and the court's jurisdiction shall
3 terminate once the overall case length limit expires and may not be
4 extended.

5 (v) "Parent" when used in relation to a juvenile, includes a guardian
6 and every person who is, by law, liable to maintain, care for or support the
7 juvenile.

8 (w) "Probation" means a period of community supervision ordered
9 pursuant to K.S.A. 38-2361, and amendments thereto, overseen by either
10 court services or community corrections, but not both.

11 (x) *"Prone restraint" means the use of manual restraint that places a*
12 *person in a face-down position.*

13 (y) "Reasonable and prudent parenting standard" means the standard
14 characterized by careful and sensible parental decisions that maintain the
15 health, safety and best interests of a child while at the same time
16 encouraging the emotional and developmental growth of the child, that a
17 caregiver shall use when determining whether to allow a child in foster
18 care under the responsibility of the state to participate in extracurricular,
19 enrichment, cultural and social activities.

20 (z) "Reintegration plan" means a written document prepared in
21 consultation with the child's parent or guardian that:

22 (1) Describes the reintegration goal, which, if achieved, will most
23 likely give the juvenile and the victim of the juvenile a permanent and safe
24 living arrangement;

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

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

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

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

32 (6) includes measurable objectives and time schedules for achieving
33 the plan; and

34 (7) if the child is in an out of home placement:

35 (A) Provides a statement for the basis of determining that
36 reintegration is determined not to be a viable option if such a
37 determination is made and includes a plan for another permanent living
38 arrangement;

39 (B) describes available alternatives;

40 (C) justifies the alternative placement selected, including a
41 description of the safety and appropriateness of such placement; and

42 (D) describes the programs and services that will help the child
43 prepare to live independently as an adult.

1 ~~(z)~~(aa) "Risk and needs assessment" means a standardized instrument
2 administered on juveniles to identify specific risk factors and needs shown
3 to be statistically related to a juvenile's risk of reoffending and, when
4 properly addressed, can reduce a juvenile's risk of reoffending.

5 ~~(aa)~~(bb) "Secretary" means the secretary of corrections or the
6 secretary's designee.

7 ~~(bb)~~(cc) "Technical violation" means an act that violates the terms or
8 conditions imposed as part of a probation disposition pursuant to K.S.A.
9 38-2361, and amendments thereto, and that does not constitute a new
10 juvenile offense or a new child in need of care violation pursuant to K.S.A.
11 38-2202(d), and amendments thereto.

12 ~~(ee)~~(dd) "Warrant" means a written order by a judge of the court
13 directed to any law enforcement officer commanding the officer to take
14 into custody the juvenile named or described therein.

15 ~~(dd)~~(ee) "Youth residential facility" means any home, foster home or
16 structure which provides 24-hour-a-day care for juveniles and which is
17 licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of
18 the Kansas Statutes Annotated, and amendments thereto.

19 ~~(ee)~~(ff) "Behavioral health crisis" means behavioral and conduct
20 issues that impact the safety or health of a juvenile, members of the
21 juvenile's household or family or members of the community, including,
22 but not limited to, non-life threatening mental health and substance abuse
23 concerns.

24 Sec. 3. K.S.A. 2023 Supp. 38-2302 is hereby repealed.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.