

# 2017 Juvenile Related Laws

## Juvenile as Victim, Offender, or CINC

Friday, July 28, 2017

Prepared by Ed Klumpp

eklumpp@cox.net

(785)640-1102

### Absconding, Juveniles

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter

Absconding from supervision is an event allowing a supervising officer to request a warrant, and is not considered a technical violation of probation. A court may issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe the juvenile has absconded from supervision and after reasonable efforts to locate a juvenile who absconded are unsuccessful. Absconding from supervision is added to the list of findings enabling a court to extend or modify the terms of probation, placement, or to enter another sentence. Absconding from supervision is an event allowing the supervising officer to file a report with the court describing the alleged violation and the juvenile's history of violations. Continuing law allows a court, following notice and hearing, to find a violation occurred and modify or impose additional conditions of release. Probation length limits and overall case length limits are tolled during any time that a juvenile has absconded from supervision while on probation.

Amends

Bill Section  EffDate  DelayedEffDate

### Adjudications Decay in Adult Criminal History

Final Bill [HB2092](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter

Juvenile adjudications are no longer used to calculate prior record for adult convictions if the current crime of conviction is committed at least five years after the date of the prior adjudication; the offender has no new adjudications or convictions during such five-year period; and the juvenile adjudication is for an offense that would be a non-drug severity level 5 through 10 felony, drug felony, nongrid felony or misdemeanor, if committed by an adult.

Amends

Bill Section  EffDate  DelayedEffDate

### Alternative Placement, Short Term

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter

The three-month limit on short-term alternative placement allowed when a juvenile is adjudicated of certain sex offenses and certain other conditions are met is removed from the sentencing alternatives statute (version effective July 1, 2017).

Amends

Bill Section  EffDate  DelayedEffDate

## Case Limits

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter **90**

The provisions of the Juvenile Code statute governing overall case, probation, and detention length limits (effective July 1, 2017) apply upon disposition or 15 days after adjudication, whichever is sooner. Probation length limits and overall case length limits are tolled for any period of time the juvenile absconded.

Amends **38-2361; 38-2391**

Bill Section **6, 10**

EffDate **7/1/2017**

DelayedEffDate

## Child Welfare System Task Force

Final Bill [SB126](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter **102**

Establishes a Child Welfare System Task Force (Task Force) to study the child welfare system in the State of Kansas. The task force will include one law enforcement officer among the 16 voting members. The Task Force is required to study the child welfare system in Kansas by convening working groups addressing DCF's general administration of child welfare, protective services, family preservation, reintegration, foster care, and permanency placement. The required topics include, but are not be limited to, the following: 1) The level of oversight and supervision by the DCF over each entity that contracts with DCF to provide reintegration, foster care, and adoption services; 2) The duties, responsibilities, and contributions of state agencies, nongovernmental entities, and service providers that provide child welfare services in the State of Kansas; 3) The level of access to child welfare services, including health and mental health services and community-based services, in the State of Kansas; 4) The increasing number of children in the child welfare system and contributing factors; 5) The licensing standards for case managers working in the child welfare system; and 6) Any other topic the Task Force or working group deems necessary or appropriate. The Task Force is required to advise and consult with citizen review boards established by statute in conducting the study required by this section.

Amends **New**

Bill Section **1**

EffDate **6/29/2017**

DelayedEffDate

## Commercial Exploitation of a Child

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter **78**

The crime of commercial sexual exploitation of a child (KSA 21-6422) is amended by combining subsections (a)(1)(A) and (B) into one subsection. The penalty is increased from a SL5 to a SL4 person felony. The combined description of the crime is "Hiring a person younger than 18 years of age by giving, or offering or agreeing to give, anything of value to any person, to engage in a manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act."

Transporting, procuring transportation, or paying for transportation of a child for purposes of selling sexual relations is stricken from this statute. Transporting is covered in aggravated human trafficking KSA 21-5426 subsections (a)(1) or (a)(4) and procuring or paying for transportation is no longer covered in statute that I can find. While some believe procuring and paying for are covered under the general term of transporting, you might want to address this with your local prosecutor for their interpretation.

Amends **21-6422**

Bill Section **14**

EffDate **7/1/2017**

DelayedEffDate

### DOC Immunity for Discharge Calculations

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

The State of Kansas, the Secretary of Corrections, the Secretary's agents or employees, the OJA, and court services officers shall not be liable for damages caused by any negligence, wrongful act, or omission in making the earned discharge credit calculations.

Amends 38-2398

Bill Section 12 EffDate 7/1/2017 DelayedEffDate

### Expungement, Human Trafficking

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 78

A court is required to order expungement of juvenile records and files if it finds the juvenile is a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child; the adjudication concerned acts committed by the juvenile as a result of such victimization, including but not limited to acts which, if committed by an adult, would constitute a violation of disorderly conduct or selling sexual relations; and the hearing on expungement occurred on or after the date of final discharge. The crimes of internet trading of child pornography and aggravated internet trading of child pornography are added to the list of crimes for which the expungement of an adult or juvenile record is not allowed. Several other amendments appear in the bill which are technical and do not make substantive changes.

Amends 21-6614; 38-2312

Bill Section 15, 23 EffDate 7/1/2017 DelayedEffDate

### Firearms Used by Juvenile in Crime

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

Upon a finding by the trier of fact that a firearm was used in the commission of a felony offense by a juvenile, the judge may commit the juvenile directly to the custody of the Secretary of Corrections for placement in a juvenile correctional facility or a youth residential facility for a term of 6 to 18 months, regardless of the risk level of the juvenile. The court may also impose a period of conditional release of up to 6 months, subject to graduated responses. The Secretary of Corrections is required to notify the court of the juvenile's anticipated release date 21 days prior to such date. This is an amendment to the changes made in 2016 SB 367.

Amends 38-2361; 38-2369

Bill Section 6, 8 EffDate 7/1/2017 DelayedEffDate

### Funding Provisions

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

References to the "Kansas Juvenile Justice Improvement Fund" are replaced with references to the "Evidence-Based Program Account of the State General Fund." A provision requiring the Secretary of Corrections to determine and certify cost savings "annually, on or before June 30," is amended to require such determination and certification "at least annually, throughout the year." A provision requiring transfer of the certified amount by the Director of Accounts and Reports "annually, on July 1 or as soon thereafter as moneys are available," is amended to require such transfer "upon receipt of a certification pursuant to" the certification provision.

Amends 75-52,164; 75-6704

Bill Section 15, 16 EffDate 7/1/2017 DelayedEffDate

Human Trafficking Technical Amendments

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter **78**

The name of the National Human Trafficking Hotline, which formerly was known as the National Human Trafficking Resource Center, is updated.

Amends **75-759**

Bill Section **25** EffDate **7/1/2017** DelayedEffDate

Human Trafficking, CDL Training

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter **78**

On and after July 1, 2018, an applicant for issuance or renewal of a commercial driver's license must provide proof of satisfactory completion of training approved by the Attorney General in human trafficking identification and prevention to the Division of Vehicles prior to such issuance or renewal. The Attorney General, in consultation with the Director of Vehicles, will promulgate rules and regulations no later than January 1, 2019, to implement this requirement.

Amends **New**

Bill Section **4** EffDate **7/1/2017** DelayedEffDate

Human Trafficking, Criminal Law

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 78

The crime of aggravated human trafficking is amended in subsection (b)(4) defining one form of the crime as "recruiting, harboring, transporting, providing or obtaining, by any means, a *child* knowing the *child* will be used to engage in forced labor, involuntary servitude, or sexual gratification of the defendant or another *involving the exchange of anything of value.*"

Subsection (b)(5) is added creating a new crime under aggravated human trafficking: "*Hiring a child by giving, or offering anything of value to any person to engage in 1) bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of another, 2) sexual intercourse, 3) sodomy, or 4) any unlawful sexual act when the offender recklessly disregards the age of the child.*"

An affirmative defense is created for violations of subsection (b)(4) or (5) for a defendant who 1) at the time of the violation was under 18 and 2) committed the violation because at the time of the violation the defendant was subjected to human trafficking or aggravated human trafficking. It is not a defense that a victim consented or willingly participated in the forced labor, involuntary servitude, or sexual gratification of the defendant or another, or that the offender had no knowledge of the age of the victim.

It is clarified that a person who violates any of the provisions of the human trafficking statute can also be prosecuted for commercial sexual exploitation of a child or any form of homicide.

A new mandatory fine is also created for those convicted of human trafficking of between \$2,500 and \$5,000, and those convicted of aggravated human trafficking a minimum of \$5,000. A provision is also added to allow a court to order anyone convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

The crime of aggravated human trafficking if committed in whole or in part for the purpose of the sexual gratification of another is added to the definition of "sex offense" in the capital murder statute.

Amends 21-5401; 21-5426

Bill Section 9, 10 EffDate 7/1/2017 DelayedEffDate

Human Trafficking, Offender Registration

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 78

The Kansas Offender Registration Act is amended by adding the crime of promoting the sale of sexual relations to the list of sexually violent crimes and specify a person convicted of such crime is required to register for 15 years.

Amends 22-4902; 22-4906

Bill Section 21, 22 EffDate 7/1/2017 DelayedEffDate

Human Trafficking, Promoting Travel

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 78

Creates a new crime of Promoting Travel for Child Exploitation, which is a SL5 person felony. Promoting Travel for Child Exploitation is knowingly selling or offering to sell travel services that include or facilitate travel for the purpose of any person engaging in conduct constituting aggravated human trafficking, sexual exploitation of a child, Internet trading in child pornography, or commercial sexual exploitation of a child. There is a violation if the promotion or sale is offered to a person in Kansas even though the destination and sexual misconduct acts would occur outside of Kansas. "Travel services" is defined as transportation by air, sea, or ground; hotel or any lodging accommodations; package tours; or vouchers or coupons to be redeemed for future travel or accommodations for a fee, commission, or other valuable consideration. [NOTE: The simple transportation of a person for the purposes of human trafficking remain in KSA 21-5426.]

Amends [New](#)

Bill Section [2](#) EffDate [7/1/2017](#) DelayedEffDate

Human Trafficking, Using Communication Facility

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 78

A new crime of Using a Communication Facility is created. It is a SL7 person felony if used to commit the crimes of human trafficking, commercial sexual exploitation of a child, or promoting the sale of sexual relations, including an attempt, conspiracy or solicitation of those crimes. It is an A person misdemeanor to use a communication facility in committing, causing, or facilitating the commission of the crime of buying sexual relations. "Communication facility" is defined as any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers, and all other means of communication. An affirmative defense is created if the defendant committed the crime because they were subjected to human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child.

Amends [New](#)

Bill Section [1](#) EffDate [7/1/2017](#) DelayedEffDate

Immediate Intervention

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter [90](#)

Participation in an immediate intervention program does not have to be offered to a juvenile who has 1) Participated in such a program for a previous misdemeanor; 2) Was originally charged with a felony but had the charge amended to a misdemeanor as a result of a plea agreement, or; 3) has been charged with a misdemeanor sex offense A juvenile is not required to participate in an immediate intervention program when the county or district attorney has declined to continue with prosecution of an alleged offense.

The Kansas Department of Corrections is required to establish and maintain a statewide searchable database containing information regarding juveniles who participate in an immediate intervention program. County and district attorneys, judges, community supervision officers, and juvenile intake and assessment workers must have access to the database and are required to submit necessary data to the database. Consultation with the Office of Judicial Administration is required in adoption of rules and regulations to implement the database.

Amends [38-2346](#); [75-52,162](#)

Bill Section [5, 14](#) EffDate [7/1/2017](#) DelayedEffDate

Internet Trading in Child Pornography

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary [Summary](#)

Session Law Chapter

78

Creates the crimes of Internet trading in child pornography (SL5 person felony). The crime is defined as an act of sexual exploitation of a child [KSA 21-5510(a)(2) SL5p] when a person 18 years of age or older knowingly causes or permits the performance to be viewed by use of any electronic device connected to the Internet by any person other than the offender or a person depicted in the performance.

Also creates the crime of aggravated internet trading in child pornography (SL3 person felony if the child is age 14-17 or an off-grid felony if the child is under age 14). Aggravated Internet trading in child pornography is an act of sexual exploitation of a child [KSA 21-5510(a)(1) or (4) SL3p] when the offender 1) employs, uses, persuades, induces, entices or coerces a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance; or 2) a parent, guardian, or other person having custody or control of a child under 18 years of age, knowingly permits such child to engage in, or assist another to engage in, sexually explicit conduct with the intent to promote any performance or with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person. If the child is under 14 years of age, the severity level reductions for attempt, conspiracy, and criminal solicitation do not apply to agg. Internet trading in child pornography.

Jurisdiction for either crime includes a place where the visual depiction or performance may be viewed by any person other than the offender using any electronic device connected to the Internet and is viewed by a law enforcement officer using an electronic device connected to the Internet while engaged in such officer's official duties.

Internet Trading in Child Pornography or Aggravated Trading in Child Pornography does not apply if the acts violate the sexting crimes passed last year of unlawful possession of a visual depiction of a child (KSA 21-5610) or unlawful transmission of a visual depiction of a child apply (KSA 21-5611).

Internet Trading in Child Pornography or Aggravated Trading in Child Pornography are both added to 1) The definitions of "sex offense" in the capital murder statute (KSA 21-5401); 2) the definition of "sexually violent crime" in the aggravated habitual sex offender statute (KSA 21-6626) and in the parole and postrelease supervision statute (KSA 22-3717); and 3) the statute prohibiting expungement of the crimes (KSA 38-2312). When the child is less than 14 years of age, the crime of aggravated Internet trading in child pornography is added as a crime where the sentence may be life with a mandatory minimum term of imprisonment of not less than 25 years (KSA 21-6627); and may not be directly appealed to the Kansas Supreme Court (22-3601).

KSA 21-5502 is amended to provide evidence of a witness's previous sexual conduct may not be presented in prosecutions of Internet Trading in Child Pornography or Aggravated Trading in Child Pornography.

Amends [New; 21-5401; 21-6626; 22-3717; 38-2312](#)

Bill Section [3, 9, 16, 20, 23](#)

EffDate

[7/1/2017](#)

DelayedEffDate



Juvenile Justice Oversight Committee

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

Two members are added to the Kansas Juvenile Justice Oversight Committee, bringing its total membership to 21. The members added are one youth member of the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention appointed by the chair of that group and one director of a juvenile detention facility appointed by the Attorney General. Two additional duties for the Oversight Committee are added: 1) study and create a plan to address the disparate treatment of and availability of resources for juveniles with mental health needs in the juvenile justice system, and 2) review portions of juvenile justice reform that require KDOC and OJA to cooperate and make recommendations when there is no consensus between the two agencies.

Amends 75-52,161

Bill Section 13 EffDate 7/1/2017 DelayedEffDate

Protection Order, Sexaul Assault

Final Bill [SB101](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 66

The Protection from Abuse Act (PFAA) and Protection from Stalking Act (PFSA) now apply to victims of sexual assault. The definition of “abuse” was amended to include “engaging in any sexual contact or attempted sexual contact with another person without consent or when such person is incapable of giving consent.” The Protection from Stalking Act (PFSA) is also renamed the Protection from Stalking and Sexual Assault Act (PFSSAA). Sexual assault is defined in the act as: 1) A nonconsensual sexual act; or 2) An attempted sexual act against another by force, threat of force, or duress, or when the person is incapable of giving consent. It allows the court to issue an order restraining the defendant from committing or attempting to commit a sexual assault upon the victim and may be combined with other orders to also include restraining a defendant from harassing, or abusing victim. The statute on violating a protective order is amended to include these orders.

Amends 60-3102; 60-31a01; 60-31a02; 60-31a03, 60-31a04; 60-31a05; 60-31a06; 60-31a07; 60-31a08; 60-31a09

Bill Section 1-11 EffDate 7/1/2017 DelayedEffDate

Reform Technical Amendments

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

Numerous technical amendments updating statutory references are made ensuring consistent phrasing, and removing a redundant effective date.

Amends 38-2304; 38-2342; 38-2361; 38-2368; 38-2369; 38-2375; 38-2330; 38-2346; 38-2391; 38-2392; 75-52,161, 75-52,162, 75-52,164 and 75-6704

Bill Section 2-11; 13-15 EffDate 7/1/2017 DelayedEffDate

Removal from Home, CINC for Continued Placement

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

In cases in which a sentencing court orders the continued placement of the juvenile outside the home as a child in need of care, DCF is no longer required to address issues of abuse and neglect by parents and to prepare parents for the child’s return home.

Amends 38-2304

Bill Section 2 EffDate 7/1/2017 DelayedEffDate

Removal From Home, Judicial Considerations

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

When a juvenile is removed from the home for the first time pursuant to the Juvenile Code, the judge is to consider the following, if appropriate, in making their decision: 1) If the juvenile is likely to sustain harm if not immediately removed from the home; 2) If allowing the juvenile to remain in the home is contrary to the welfare of the juvenile; or 3) If immediate placement of the juvenile is in the juvenile's best interest. Such placement also requires a finding that reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or an emergency exists that threatens the safety of the juvenile.

Amends

Bill Section  EffDate  DelayedEffDate

Sentencing Matrix

Final Bill [SB42](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 90

The categories of serious offender III and serious offender IV, which carry the same risk-level requirements and JCF commitment terms, are consolidated into a single serious offender III category in the matrix statute (version effective July 1, 2017).

Amends

Bill Section  EffDate  DelayedEffDate

Sexual Assault Examinations, Parental Notice

Final Bill [SB101](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 66

Current law requires a medical facility to give a parent or guardian written notice when a child has been given a sexual assault examination. An exception is created if either 1) the medical facility has information that a parent, guardian, or family or household member is the subject of a related criminal investigation, or 2) the physician, licensed physician assistant, or registered professional nurse, after consultation with law enforcement, reasonably believes the child will be harmed if such notice is given.

Amends

Bill Section  EffDate  DelayedEffDate

Sexual Exploitation of a Child

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter 78

Sexual exploitation of a child (KSA 21-5510) is amended to increase the severity level from a SL5 to a SL3 person felony when committed by 1) employing, using, persuading, inducing, enticing, or coercing a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance [KSA 21-5510 (a)(1)]; or 2) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance [KSA 21-5510 (a)(4)]. The elements of the crime have not changed, just the penalty.

Amends

Bill Section  EffDate  DelayedEffDate

Victim Compensation, Human Trafficking

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) Session Law Chapter [78](#)

Compensation from the Crime Victims Compensation Board is allowed to a victim of human trafficking or commercial sexual exploitation of a child who was 18 years or younger at the time the crime was committed and is otherwise qualified for compensation.

Amends [74-7305](#)

Bill Section [24](#) EffDate [7/1/2017](#) DelayedEffDate

More Legislative Information Available at [www.KsLawEnforcementInfo/2017-session.html](http://www.KsLawEnforcementInfo/2017-session.html)

Disclaimer: I am not an attorney and the above is not legal advice or legal interpretation. It is a summary of the legislation as presented at the legislature and in legislative documents.