KANSAS
JUVENILE JUSTICE AUTHORITY

Mark Parkinson, Governor
J. Russell Jennings, Commissioner
jja.ks.gov

Memorandum

To: Duane A. Goossen, Director of the Budget
Attn: John Kirk

From: J. Russell Jennings, Commissioner

Date: January 29, 2010

Re: Fiscal Note for SB 459

SUMMARY OF THE BILL'S PROVISIONS

Section 1. Revisions to K.S.A. 38-2344, codifying the Kansas Supreme Court's ruling in *In re L.M.*, 286 Kan. 460, 186 P.3d 164 (2008), pertains to juvenile jury trials, and clarifies the recitation of rights required by the court prior to entering a plea to clarify there is a right to jury trial and a right to confront and cross-examine witnesses.

Section 2. Revisions to K.S.A. 38-2357, pertains to juvenile jury trials and provides that a juvenile offender is entitled to trial to the court or by jury, and the juvenile must make the request for jury trial in writing within 30 days of entering a plea; it also contains a provision for waiver of the deadline due to hardship. This section also establishes the makeup of a jury in felony (jury of 12) and misdemeanor (jury of six) cases; provides the court shall decide issues of law and the jury will decide issues of fact; makes provisions for the verdict form and polling of the jury; provides felony jury rules apply to misdemeanor cases; provides that trials in a city municipal court shall be to the court; and that trials of cigarette/tobacco or traffic infractions shall be to the court.

Section 3. Revisions to K.S.A. 38-2364, pertains to revocation in extended juvenile jurisdiction cases, and provides there may be one or more conditions violated. This section also provides the court may revoke the stay and juvenile sentence and direct the juvenile be delivered to the Secretary of Corrections. This section further clarifies the burden of proof is a "preponderance of the evidence" to find a new offense or violation of one or more conditions. This section also grants the court discretion to revoke the juvenile sentence and removes the mandatory language requiring revocation upon the finding of a violation or new offense.

Section 4. Revisions to K.S.A. 38-2365, pertains to the placement of a juvenile offender and provides notification must also be made to the attorney of record and the juvenile's parent of the

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initial and any subsequent change of placement as soon as the placement has been accomplished. A minor grammatical error is also corrected.

Section 5. Revisions to K.S.A. 38-2373, contains a technical correction to replace the word "study" with the word "custody" to clarify that juvenile offenders are delivered to the custody and control of the juvenile justice authority.

IMPACT ON JUVENILE JUSTICE AUTHORITY OPERATIONS

Revisions to Section 3 pertaining to revocation in extended juvenile jurisdiction cases grants the court discretion to revoke a juvenile sentence, and may result in more juveniles with extended juvenile jurisdiction sentences being held in the custody of the Commissioner. Currently, where it is alleged a youth has violated the juvenile sentence or committed a new crime, the court can, without notice, revoke the stay and direct the juvenile be taken immediately into custody and delivered to the Secretary of Corrections. The court can only hold a hearing if the youth, after notice, challenges the revocation. If the court finds a violation, the court must revoke the juvenile sentence, impose the adult criminal sentence, terminate the extended jurisdiction status, and terminate the juvenile offender case. Jurisdiction is then transferred to adult court.

SB 459 would grant the court discretion so that juveniles already on extended jurisdiction status may remain in JJA custody rather than automatically going to the adult system permanently upon a finding of a violation.

Since the exercise of a court's discretion is difficult to anticipate, the impact of this change on Juvenile Justice Authority operations is unknown.

Revisions to Section 4 pertain to the notifications concerning a juvenile offender's placement. Such notifications will be in addition to other notifications currently being made. However, JJA does not believe these added notifications will impact day-to-day agency operations.

BUDGET IMPACT

The revisions to Section 3 may result in some youth staying in the JJA system longer. The impact on the agency's budget depends on the number of youth who would stay in the system longer as a result of this bill, as the number of youth in community placements and juvenile correctional facilities would increase. The exact impact cannot be determined at this time as the agency does not track the number of extended jurisdiction of youth in custody and it is difficult to predict how the courts will act.

COMMENTS

In 2007, the revised Kansas juvenile justice code was enacted. In this revision, most of the previous statutes in the juvenile justice code were repealed. For a reason that is unclear, K.S.A. 38-1664 was not repealed. K.S.A. 38-1664 conflicts with K.S.A. 2009 Supp. 38-2365 in its current form and in the proposed amendment described above.