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Written Testimony in Opposition to HB 2325
House Committee on Corrections and Juvenile Justice

Chair Lewis, Ranking Member Schlingensiepen, and Members of the House Committee on Corrections and Juvenile Justice,

Thank you for the opportunity to provide this testimony. I am writing today in opposition of House Bill 2325, which allows judges to send youth offenders to detention for technical violations of probation, and increase youth detention limit from a 45 day to a 90 day maximum. It would also put in place unnecessary provisions that already exist within the scope of current law.

Kansas Appleseed has a long history of unwavering commitment to advocating for the rights and well-being of children, including ending punitive youth justice practices in the state. The Kansas Juvenile Justice Code establishes that the primary goals for the code include promoting public safety and improving the ability of youth to live more productively and responsibly in the community.¹ Despite these goals, there are still parts of the youth justice system that are failing the kids it promises to help. HB 2325 does not correct those ongoing failings. Rather, it is a step away from the promise of rehabilitative justice for Kansas children.

The justice reforms of 2016 occurred because of the crisis the youth justice system in the state was facing. At the time of the revised juvenile justice code, the state increasingly relied on taking children out of their homes and communities and placing them in prisons and other facilities. Those practices led to the state having the 6th highest youth detainment rate in the country.² This approach was simply not working to achieve any sort of meaningful outcomes for youth and their families. Research found:

- The punitive and incarceration model of youth justice was **ineffective and counterproductive**. A 2014 Kansas Department of Corrections found that 54% of youth in facilities were not successfully discharged. A 2015 Council of State Governments study also found that 42% of Kansas youth that had been incarcerated were incarcerated again within three years of release. Studies repeatedly found that incarcerating youth only increased the risk that the youth would commit an offense in the future. 80% of these children were incarcerated despite low to moderate risk offenses and behaviors. Yet, as a result of the reliance of the courts on sending kids to prison, they now risked a lifetime in a cycle of incarceration and repeated offenses.³

¹ K.S.A. 38-2301(a).

² Office of Juvenile Justice and Delinquency Prevention "Statistical Briefing Book" 2015.

³ Kansas Department of Corrections "Cost Study of Youth Residential Centers for Juvenile Offenders – Pursuant to Senate Substitute for House Bill 2588" January 2015; Council of State Governments "Reducing Recidivism for Youth in the Juvenile Services Division of the Kansas Department of Corrections: Analyses and Recommendations" March 2015; US Department of Justice "Kansas State DMC Assessment" 2013; National Research Council "Reforming Juvenile Justice: A Developmental Approach" 2013; University of Pittsburgh "Pathways to desistance: A study of

- The **ineffectiveness** of the system was not only rooted in its reliance on locking kids away, but also for the length of time children were locked up. Research shows that incarceration longer than three months does nothing to reduce the risk of recidivism. Yet, at the time, the average child in Kansas facilities stayed for over a year, increasing their risks of recidivism despite diminishing returns on outcomes.⁴
- The punitive system also was **inconsistent**, inflicting more harm and risks on vulnerable populations of children. A 2015 study found incarceration rates and other youth case outcomes varied widely across the state, meaning justice had a deterministic relationship to geography. Further, a disproportionately large number of youth of color were punished under the pre-reform Kansas youth justice system.⁵
- The punitive system was fiscally **unsustainable**. Kansas' high reliance on incarceration and the subsequently high recidivism rates needed large amounts of funding that took money away from prevention and other evidenced-based programs. At the time more than two-thirds of the state's youth justice budget was spent on youth prisons and other out-of-home placements. Incarcerating a child costs significantly more money than community-based solutions. In 2015 it cost more than \$240 per day per youth housed in a prison. Meanwhile, at the time, it cost \$16 per day per youth for the state to provide community-based solutions.⁶

The revised juvenile justice code aimed to address these failures of the youth justice system in Kansas. It requires that the state:

- Fund evidence-based community programs with the the cost-savings from not incarcerating children providing the funds;
- Set case and probation length limits for misdemeanor and other low-level offenses.
- Reserves incarceration and secure facility placements only for the highest-risk youth.

While these requirements align with evidence-based best practice, the juvenile justice code does currently allow for the override of a detention risk assessment as defined in KSA 38-2331 and 75-7023 if a judge deems this to be appropriate and needed.

Since youth justice reforms, outcomes for Kansas youth support the importance and success of evidence-based interventions rather than incarceration to achieve successful outcomes and reduce recidivism for Kansas youth. For example:

- Prior to youth justice reform, 42% of all youth in juvenile correctional facilities were reincarcerated within three years of release. However, since the end of mass

serious adolescent offenders as they transition to adulthood and out of crime; Estimating a Dose-Response Relationship between Length of Stay and Future Recidivism in Serious Juvenile Offenders" 2009.

⁴ Pew Charitable Trusts, Presentation to Kansas inter-branch Juvenile Justice Workgroup, August 2015; Council of State Governments "Reducing Recidivism for Youth in the Juvenile Services Division of the Kansas Department of Corrections: Analyses and Recommendations" March 2015.

⁵ Pew Charitable Trusts, Presentations to Kansas inter-branch Juvenile Justice Workgroup, 2015.

⁶ Kansas Division of the Budget "FY 2016 Comparison Report" Updated September 2015; Kansas Department of Corrections "Annual Report" 2013; Washington State Institute for Public Policy "Benefits and Costs of Prevention and Early Intervention Programs for Youth" 2004; Colorado Department of Public Safety "What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs: A Compendium of Evidence-Based Options for Preventing New and Persistent Criminal Behavior" 2008; Washington State Institute for Public Policy "Benefits and Costs of Prevention and Early Intervention Programs for Youth" 2004.

incarceration of Kansas youth, reentry of youth offenders into correctional facilities has fallen by 86%.⁷

- Most children involved in the youth justice system are referred to Immediate Intervention Programs (IIP), mental health services, or other treatment programs. Resources not spent on incarceration of children can be spent on these types of in-demand services that keep children out of jails. Further, the reduction of reentry since youth justice reforms in 2016, has shown these programs have more success and better outcomes than incarceration.⁸
- Since 2015, the number of youth in correctional facilities has fallen by nearly 50% in Kansas.⁹
- Prior to youth justice reforms, Kansas had the 6th highest rate of confinement per 100,000 youth. Since youth justice reforms, that rate has fallen significantly (about 60%), and Kansas now ranks 26th in the nation.¹⁰

So, now I ask you what basis this bill—which would undo years of positive outcomes, break a bipartisan promise this body made to Kansas children almost 10 years ago- has for being heard in this committee today? Why should the cumulative detention limit be doubled from 45 to 90 days, when the current limit was specifically chosen to spur prompt action from the system and prevent kids from languishing in jail while their case plays out? What rationale is there to extend the minimum sentence from 6 months to 12 months? And what rationale is there for doubling the maximum sentence to 36 months, which is an eternity in the life of a child. What basis do we have to believe that extending incarceration lengths would lead to positive outcomes, when data we have access to shows the opposite?

Additionally, why do the courts in this state need to be told how to respond to youth who are found to have had possession of or used a firearm during the commission of an offense? The implication of such being a lack of belief that courts are not utilizing existing override statute; therefore, taking the presence of a firearm less seriously than needed. If judges are not making that decision, I think it warrants conversation with them about why their local decisions are not utilizing the override provisions that already exist, not a state mandate that supersedes their discretion.

Under this bill Kansas would be once again causing harm by incarcerating children for minor infractions, and for longer periods of time. Technical probation violations are things like missing a probation appointment, failing to pay a probation fee, missing a curfew, missing school or work, or not completing another term of your probation. This bill would allow judges to lock children up for such violations, including something as minor as being caught with a vape. For a moment, think of yourself as a 14 to 16 year old. Consider your maturity level, reaction to authority, ability to regulate your emotional reactions, and your ability to process the long-term consequences of your actions. You likely lacked many of these key skills. It is this lack of fully developed cognitive function that often leads children to commit probation violations. Now think about how much you changed and learned day-by-day let alone over the course of three years. There are so many vital experiences and growth opportunities a youth will unnecessarily miss

⁷ Justice Center, The Council of State Governments, 2015. <https://www.doc.ks.gov/juvenile-services/csg/PPT2015/view> and Source: KDOC, JCF Admissions and Releases Dashboard, <https://www.doc.ks.gov/dashboards/annual-report-dashboards>

⁸ KDOC, JCF Admissions and Releases Dashboard, <https://www.doc.ks.gov/dashboards/annual-report-dashboards>

⁹ KDOC, Annual Report, <https://www.doc.ks.gov/dashboards/annual-report-dashboards> and KDOD, Annual Report, 2015, <https://www.doc.ks.gov/publications/Reports/Archived/2015/view>

¹⁰ KDOC, Annual Report, <https://www.doc.ks.gov/dashboards/annual-report-dashboards> and Justice Center, The Council of State Governments, 2015. <https://www.doc.ks.gov/juvenile-services/csg/PPT2015/view>

with extensions to detention times, not even considering the trauma and risk for exposure to more negative behaviors these extensions present.

Prior to reforms, more than one in five entries into juvenile prisons in Kansas was a return admission due to a technical violation of conditional release.¹¹ These are not violent, hardened criminals, but children whose brains and decision-making facilities are still developing. In 2024, 74% of all juvenile cases (8,750 out of 11,900 cases) in Kansas were for misdemeanors.¹²

This bill would also allow for uneven justice to be applied to children across the state. Prior to reforms, youth supervision officers reported a lack of uniformity in the factors guiding responses to technical violations of probation.¹³ The reforms this bill attempts to undo provided guidance on responses to technical violations.

Further, HB 2325 would extend youth detention time limits, a choice that not only lacks credible evidence in support, but directly goes against the data on outcomes. Studies have shown the trauma of incarceration is a larger predictor of recidivism than gang membership, parental abuse, or carrying a weapon. Taking a child from their family and placing them in a juvenile justice facility breaks important connections to family, community, and school, making it less likely that the child will get back on the right path. Family- and community-based youth justice programs keep those connections intact, allowing the programs to address the full causes of the child's offense and treat and rehabilitate the child, rather than punish them.¹⁴

Not only will this bill have a heavy cost on the wellbeing of Kansas children, but it will also have a fiscal impact. As mentioned, it costs significantly more to lock a child up than have them in their community completing evidence-based interventions and monitored through probation. It costs the state about \$134,000 a year for each youth incarcerated in a correctional facility.¹⁵ Costs for community based interventions and probation are significantly less. If the state begins locking up more children for technical violations, and doing so for longer, there will be a fiscal cost to do so.

Frustrations over the continued issues in the youth justice system are understandable, but we cannot continually ask the same children we aim to help to pay the costs and bear the burden of those failures. Returning to a punitive system that causes harm and sets children up for a life where they have to fight against a vicious cycle is not the answer. The answer is to fully implement and fund the youth justice reforms we promised Kansas children and families almost a decade ago. If we are going to focus on making changes to this section of the juvenile justice code, it should be in ways that align with evidence-based best practice and the positive results we see since the codes revision; we should change the code to *exclude* technical violations as these are only matters of noncompliance and minor issues that do not result in any public safety risk.

¹¹ Pew Charitable Trusts, Presentation to Kansas inter-branch Juvenile Justice Workgroup, August 2015.

¹² This calculation excludes Child In Need of Care (CINC) intake cases. When those cases are included in the total, misdemeanors are still the majority of youth intakes at 58%. KDOC. Annual Reports Dashboard. Juvenile Report Home Page—Juvenile Intakes by Crime Type. <https://dashboards.doc.ks.gov/dashboards/view>.

¹³ Pew Charitable Trusts, Presentation to Kansas inter-branch Juvenile Justice Workgroup, August 2015.

¹⁴ Research cited and summarized in Prison Fellowship and Kansas Appleseed. "Juvenile Justice Reform: A Golden Opportunity to Invest in Kansas Families." 2016.

https://www.prisonfellowship.org/wp-content/uploads/2016/02/Kansas-Issue-Paper-_Investing-in-Family-_Juvenile-Justice-Reforms.pdf

¹⁵ Urban Institute, 2020, "Data Snapshot of Youth Incarceration in Kansas,"

<https://www.urban.org/sites/default/files/publication/102130/data-snapshot-of-youth-incarceration-in-kansas-2020-update.pdf>

As such, I urge you to join me in opposing this regressive and dangerous bill. In doing so, you will affirm to Kansas judges that you trust their ability to make informed and considerate decisions to override the detention risk assessment and issue appropriate sentences to youth—abilities already well within their power. You will also keep a promise to Kansas kids that a mistake they make as a child will not set them up for a lifetime of failure, but instead will get them the support they need to thrive now and as adults.

Thank you for your time,

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