

AN ACT relating to the juvenile justice system and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

*The cabinet shall ensure that all departments within the cabinet collaborate to develop procedures to allow collection and sharing of data necessary to analyze juvenile recidivism. Recidivism includes an adjudication of delinquency by a juvenile court, or a conviction by a District Court or Circuit Court, for an offense committed within three (3) years of release from the custody or control of the Department of Juvenile Justice.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

*(1) It is the intent of the Commonwealth to maintain public safety and achieve savings through the use of evidence-based treatment programs and practices at the local level and to reinvest a portion of the savings achieved into community-based programs and services.*

*(2) The cabinet shall, as funds become available, develop a fiscal incentive program to fund local efforts that enhance public safety while reducing juvenile justice system costs.*

*(3) Funds appropriated to the cabinet for the fiscal incentive program shall be distributed as follows:*

*(a) Ninety percent (90%) shall be utilized for renewable, competitive grants to be awarded to judicial districts, or groups of judicial districts, for the purpose of establishing community-based sanction and treatment programs that provide alternatives to out-of-home placement; and*

*(b) Ten percent (10%) shall be made available to judicial districts, or groups of judicial districts, not receiving funds under paragraph (a) of this subsection,*

to fund individualized interventions on an occasional basis to avoid commitment to the Department of Juvenile Justice for a limited number of youth.

(4) The cabinet shall establish the incentive grant application and award process for funds allocated under subsection (3)(a) of this section that includes but is not limited to:

(a) The requirements for the grant application, including:

1. The identification of the local committee that will be responsible for the grant application and implementation. The committee shall consist of local individuals or organizations, which may include judges, county attorneys, defense attorneys, educators, treatment providers, mental health or behavioral health service providers, local officials, law enforcement, and other interested persons. The local committee may utilize an existing committee or may be formed for the purpose of the grant application and implementation;
2. A requirement that the application be signed as "Have Reviewed and Agree" by all juvenile court judges in the applicant's judicial district or group of judicial districts;
3. A description of the proposed program region and the juvenile justice need the program is intended to meet;
4. A description of how the proposed program collaborates with:
  - a. Schools;
  - b. The Administrative Office of the Courts;
  - c. The Cabinet for Health and Family Services;
  - d. Private entities serving children and families; and
  - e. The department; and
5. A description of performance measures to be utilized to measure the

outcome and overall impact of the program;

(b) The procedure for review of the grant applications and the award of the grants including:

1. A committee that includes subject matter experts to review the applications;

2. Criteria to be utilized in awarding of the grants, including but not limited to:

a. The use of evidence-based practices in program design;

b. How the program reduces the use of commitments;

c. How the program reduces the use of out-of-home placements;

d. How the program reduces recidivism;

e. How the program establishes or utilizes educational, vocational, substance abuse, behavioral health, mental health, or family intervention services, and local alternatives to detention;

f. Whether grant funds will be used to leverage existing funding resources or increase access to existing resources;

g. Geographical distribution;

h. The number of youth potentially served by the program or service;

i. The cost of the program or service; and

j. The existence of similar services in the judicial district; and

3. A process for awarding the grants that may include objective scoring criteria;

(c) A baseline for calculating reductions for the competitive grant program utilizing 2013 data that combines commitment and detention admissions, and overrides of decisions to allow eligible cases to proceed to diversion; and

(d) Criteria for renewal of a grant awarded under subsection (3)(a) of this section, including:

1. a. A twenty percent (20%) reduction in detention admissions, public offense commitment, or combination thereof, as compared to the applicant's baseline; or

b. A ten percent (10%) reduction in detention admissions, public offense commitments, or combination thereof and a thirty percent (30%) reduction in the use of prosecutorial override of diversion recommendations as compared to the applicant's baseline;

2. If the judicial district meets the reductions required in this subsection, the judicial district may be considered for grant renewal. The grants are not guaranteed to be renewed, and an application shall be submitted for consideration of renewal;

3. If a judicial district has substantially complied with the requirements of the program, but has not attained the reductions required in this subsection, the judicial district may apply for a grant renewal if there is a fifteen percent (15%) reduction in detention admissions, public offense commitments, or a combination thereof during year one (1) as compared to the applicant's baseline; and

4. Detention and public offense commitments for violent offenses as specified in KRS 439.3401 shall not be counted in the calculation of reductions for a judicial district.

(5) (a) A judicial district may apply for the competitive grant program under subsection (3)(a) of this section until:

1. The population of detention admissions and public offense commitments is reduced by sixty percent (60%) as compared to the

applicant's baseline; or

2. The population of detention admissions, public offense commitments, or a combination thereof is reduced by thirty percent (30%) as compared to the applicant's baseline, and the use of prosecutorial override of diversion recommendations is reduced by ninety percent (90%) as compared to the applicant's baseline.

(b) If the judicial district meets the reductions described in paragraph (a) of this subsection, the district may continue to apply for funding so long as the reductions required are maintained.

(6) The cabinet shall establish an expedited application and approval process for awarding the one (1) time only funds under subsection (3)(b) of this section, that includes but is not limited to:

(a) A requirement that the application be signed as "Have Reviewed and Agree" by a juvenile court judge in the applicant's judicial district or group of judicial districts;

(b) A description of the proposed purpose of the grant and the applicant's need; and

(c) Other requirements as determined appropriate by the cabinet.

(7) The Administrative Office of the Courts shall:

(a) Act as the fiscal agent to receive funds awarded to a judicial district;

(b) Provide technical assistance to the judicial district in developing and writing its grant application; and

(c) Collect and report data the judicial districts are required to report under the fiscal incentive program.

(8) The cabinet shall report annually to the oversight council created in Section 3 of this Act on the fiscal incentive program, outcomes achieved, and cost savings realized through reductions in the use of detention and commitments.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The Juvenile Justice Oversight Council is created for the purpose of providing independent review of the state juvenile justice system and providing recommendations to the General Assembly. The council is to actively engage in the implementation of the juvenile justice reforms in this Act, collect and review performance measurement data, and continue to review the juvenile justice system for changes that improve public safety, hold youth accountable, provide better outcomes for children and families, and control juvenile justice costs.

(2) (a) The membership of the council shall include the following:

1. The secretary of the Justice and Public Safety Cabinet, ex officio;
2. The commissioner of the Department of Behavioral Health, Developmental and Intellectual Disabilities, ex officio;
3. The commissioner of the Department for Community Based Services, ex officio;
4. The commissioner of the Department of Juvenile Justice, ex officio;
5. The commissioner of the Department of Education, ex officio;
6. The director of the Administrative Office of the Courts, ex officio;
7. The Public Advocate, ex officio;
8. The Senate chair of the Committee on Judiciary, nonvoting ex officio;
9. The House chair of the Committee on Judiciary, nonvoting ex officio;  
and
10. Five (5) at-large members appointed by the Governor, as follows:
  - a. One (1) member representing public schools or an education group or organization;
  - b. One (1) District Judge nominated by the Chief Justice of the Kentucky Supreme Court;

- c. One (1) member representing law enforcement;
- d. One (1) member of the County Attorneys' Association nominated by the Attorney General; and
- e. One (1) member representing community-based organizations, whether for-profit or nonprofit, with experience in programs for juveniles, including substance abuse prevention and treatment, case management, mental health, or counseling.
- (b) The chairs of the House and Senate Judiciary shall serve as co-chairs.
- (c) At-large members shall be appointed by August 1, 2014, and shall serve a term of two (2) years, and may be reappointed.
- (d) Each ex officio member, except for legislative members, may designate a proxy by written notice to the council prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.
- (e) Except as otherwise provided by law, members shall not be compensated for being members of the council but shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred while performing council business.
- (f) The council shall meet at least quarterly. A quorum, consisting of a majority of the membership of the council, shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
- (3) The council shall:

  - (a) Oversee the implementation of the reforms contained in this Act, including:

    - 1. Review of the performance measures to be adopted and recommend modifications;
    - 2. Ensure all policies are implemented in accordance with the time frames established;

3. Ensure the fiscal incentive program established pursuant to Section 2 of this Act is implemented and continue to review the program; and
  4. Review the Department of Juvenile Justice facilities plan submitted following a reduction of population and make recommendations to the General Assembly as to the plan and any changes to the reinvestment of savings achieved from the closure of any facilities;
- (b) Collect and review performance data and recommend any additional performance measures needed to identify outcomes in the juvenile justice system;
- (c) Review the information received from the Department of Education pursuant to Section 10 of this Act, and determine whether any action is necessary, including additional performance measures, funding, or legislation;
- (d) Continue review of juvenile justice areas determined appropriate by the council, including:
1. Status offense reform;
  2. Necessary training for school resource officers and school security officers, as defined in Section 13 of this Act, in juvenile justice best practices, research and impacts on recidivism and long-term outcomes;
  3. Graduated sanctions protocols in public schools, including their current use and their development statewide;
  4. A minimum age of criminal responsibility;
  5. Competency;
  6. Reforms to the Family Resource and Youth Service Centers in the Cabinet for Health and Family Services;
  7. Population levels in Department of Juvenile Justice facilities, and the



potential for closure of facilities while maintaining staffing ratios necessary to comply with applicable accreditation standards; and

8. Whether juvenile court hearings should be open to the public; and  
(e) Report by November 2014, and by November of each year thereafter to the Interim Joint Committee on Judiciary and the Governor and make recommendations to the General Assembly for any additional legislative changes the council determines appropriate.

(4) The council shall be attached to the Justice and Public Safety Cabinet for administrative purposes.

(5) The council shall terminate on July 1, 2022, unless the General Assembly extends the term of the council.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 2016, fifty percent (50%) of state moneys expended by the department on programs shall be for programs that are in accordance with evidence-based practices.

(2) Beginning July 1, 2018, and thereafter, seventy-five percent (75%) of state moneys expended by the department on programs shall be for programs that are in accordance with evidence-based practices.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The Department of Juvenile Justice shall promulgate administrative regulations that shall include:

(1) Development or adoption of a validated risk and needs assessment that:

- (a) Considers factors such as the severity of the current offense, the child's previous public offense record, and the child's assessed criminal risk factors;

- (b) Is administered for all children adjudicated on a public offense prior to disposition and at regular intervals thereafter to determine risk levels and to identify intervention needs; and
- (c) Is implemented based on policies and practices for utilization of the assessment instrument to objectively guide placement and the length and type of treatment for each child committed to the department or probated to the department or other entity;
- (2) The provision of treatment for committed and probated children in accordance with evidence-based practices, including, at a minimum:
- (a) Development of a case plan for each child committed to the department or probated to the department that targets the risk factors identified in the assessment, is responsive to individual characteristics, involves the family as appropriate, provides supervision or monitoring of children according to their case plan, and establishes a treatment plan in accordance with subsection (3) of this section; and
- (b) Development and implementation of a graduated sanctions protocol of swift, certain, proportionate, and graduated sanctions that a probation officer or employee of the department shall apply in response to a child's violations of the terms or conditions of probation. The graduated sanctions protocol shall:
1. Include a continuum of sanctions that take into account factors such as the severity of the current violation, the child's previous criminal record, the number and severity of any previous probation violations, the child's assessed risk level, and the extent to which graduated sanctions were imposed for previous violations. The system shall also define positive reinforcements that the probated child may receive for compliance with his or her terms or conditions of probation. A

sanction of up to thirty (30) days' out-of-home placement may be imposed for a violation of the terms of probation. A child shall not be committed or recommitted to the Department of Juvenile Justice for the violation of the conditions of probation;

2. Provide that judicial review, for a probated youth, or an administrative hearing for a committed youth, shall not be necessary to impose graduated sanctions less than out-of-home placement; and

3. Require that less-restrictive graduated sanctions be utilized prior to requesting judicial review unless there is clear and convincing evidence that there are no graduated sanctions available that are appropriate for the child and the child is an immediate threat to himself, herself, or others;

(3) Development and implementation of treatment plans for committed and probated children that:

(a) Take into consideration the severity of the current offense and the child's assessed risk and needs as identified by a validated risk and needs assessment;

(b) Involve the family in the treatment plan as appropriate; and

(c) Allow a child to complete treatment in the community if resources are available rather than in a secure or nonsecure facility;

(d) For committed children may include:

1. A maximum of four (4) months of out-of-home placement if the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than a violation of KRS Chapter 510 or an offense involving a deadly weapon;

2. A maximum of eight (8) months of out-of-home placement if the child was adjudicated for an offense that would be a Class D felony if

committed by an adult, other than a violation of KRS Chapter 510 or an offense involving a deadly weapon; and

3. A provision that if a child has reached the maximum time allowed in out-of-home placement, as specified in paragraphs (a) and (b) of this subsection, and further out-of-home placement is determined to be necessary for completion of treatment, the child may be held for an additional period only upon approval of the Administrative Transfer Request Committee, or another appropriate entity within the department as designated by the commissioner of the department after review of the facts and circumstances warranting the need for continued out-of-home placement. If the commissioner approves continued out-of-home placement, the maximum time the placement may be continued is the maximum originally allowed under paragraphs (a) and (b) of this subsection and the total period of commitment shall not exceed that permitted under Section 47 of this Act;

(4) Development and implementation of professional development programs for department staff who interact with or who are responsible for the treatment, supervision, or placement of children, that includes training on juvenile justice research relating to effectiveness of juvenile justice interventions, impacts of out-of-home placement, alternatives to incarceration, use of graduated sanctions, case planning, administration of a validated risk and needs assessment, and training to address specific issues such as domestic violence, trauma, and family engagement;

(5) Development of procedures for measuring the outcomes of each treatment and intervention program and practice to demonstrate that the program or practice has a documented evidence base and has been evaluated for effectiveness in

reducing recidivism for the children it serves, including:

- (a) A process for reviewing the objective criteria for evidence-based programs and practices established by the agency providing the program;
  - (b) A process for auditing the effectiveness of the programs; and
  - (c) An opportunity for programs that do not meet the criteria based on the audit results to develop and implement a corrective action plan within one hundred eighty (180) days of the audit;
- (6) Development of procedures to track juvenile recidivism, which shall include adjudication of a new public offense or conviction of a crime within three (3) years of release from an out-of-home placement or release from commitment, and collaboration with the Department of Corrections and the Administrative Office of the Courts to obtain adult conviction and incarceration information to enable collection of recidivism data;
- (7) Development of procedures to track the pre-adjudication and post-adjudication admissions beginning no later than August 1, 2014; and
- (8) Development of procedures to ensure maximum utilization of available federal funding resources which may be available to the agency.

As used in this section, "evidence-based practices," "graduated sanction," "out-of-home placement," and "risk and needs assessment" have the same meanings as in Section 24 of this Act.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

- (1) There is established within the department a Division of Placement Services that shall be responsible:
- (a) For the management, policy direction, and coordination of all matters relating to the classification, evaluation, and placement of juveniles committed to or detained by the department;

(b) For the transportation of juveniles committed to or detained by the department;

(c) If the division places a juvenile in a county other than the county of adjudication or sentencing, for notifying a department caseworker in the county of placement of this fact; and

(d) For notifying the District Court in the county of placement of the juvenile's complete offense record.

(2) Any savings achieved by the Department of Juvenile Justice as a result of a reduction in the population in Department of Juvenile Justice facilities shall be reinvested as follows:

(a) Fifty percent (50%) of all savings shall be reinvested into Department of Juvenile Justice community supervision and aftercare services;

(b) Twenty-five percent (25%) shall be reinvested in day treatment centers; and

(c) Twenty-five percent (25%) shall be reinvested in the fiscal incentive program established in Section 2 of this Act.

The oversight council established in Section 3 of this Act may recommend to the General Assembly modifications to the allocation of funds under this subsection.

➔Section 7. KRS 15A.067 is amended to read as follows:

(1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky and juvenile detention facilities operated by the Commonwealth of Kentucky for the care of juveniles alleged to be delinquent or adjudicated delinquent.

(2) (a) There is established within the department~~[ of Juvenile Justice]~~ a Division of Program Services that shall be responsible for ensuring the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to youth ordered by the court to remain in the juvenile detention facility.

- (b) Any other statutes to the contrary notwithstanding, the department ~~of Juvenile Justice~~ shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.
- (c) The Division of Program Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:
1. For students identified before incarceration as having an educational disability, the Division of Program Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.
  2. For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include but not be limited to seeking the juvenile's educational record.
  3. For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.
- (d) The department ~~of Juvenile Justice~~ shall be responsible for providing, in its contracts with non-state-operated~~private~~ juvenile detention facilities ~~and county jails~~, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.
- (e) The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Program Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

- (f) 1. Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.
2. Within five (5) days after the juvenile is released, the Division of Program Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.
- (g) The department~~[of Juvenile Justice]~~ shall, after consultation with the Department of Education, promulgate an administrative regulation for the effective implementation of this section.

~~[(3) There is established within the Department of Juvenile Justice a Division of Placement Services that shall be responsible for the management, policy direction, and coordination of all matters relating to the classification, evaluation, and placement of juveniles committed to or detained by the department. The division shall also be responsible for the transportation of juveniles committed to or detained by the department. If the division places a juvenile in a county other than the county of adjudication or sentencing, then the division shall be responsible for notifying a department caseworker in the county of placement of this fact. The division shall also notify the district court in the county of placement of the juvenile's complete offense record.]~~

➔Section 8. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and KRS 15A.990:

- (1) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice;
- (2)~~["Intermittent holding facility" means a physically secure setting, approved by the~~



~~Department of Juvenile Justice, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners in which a child accused of a public offense may be detained for a period not to exceed twenty four (24) hours, exclusive of weekends and holidays, prior to a detention hearing as provided in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;~~

~~(3) "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas, and which is staffed exclusively by sufficient certified juvenile facility staff to provide twenty four (24) hours per day, supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;~~

~~(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, [intermittent holding facility,] or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;~~

~~(3)(5) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the nonsecure detention of juveniles; and~~

~~(4)(6) The term "facility" or "facilities" as used in KRS 15A.210 to 15A.240 shall mean the facilities defined in this section.~~

➔Section 9. KRS 15A.305 is amended to read as follows:

(1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is

constructed and ready for occupancy, shall, within appropriation limitations, provide for:

- (a) The operation of preadjudication detention facilities for children charged with public offenses; and
  - (b) The operation of postadjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.
- (2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to secure detention that shall provide for:
- (a) The operation of or contracting for the operation of preadjudication alternatives to secure detention and follow-up programs for juveniles who are before the court ~~or~~ and who enter pretrial diversion or informal adjustment programs; and
  - (b) The operation of or contracting for the operation of postadjudication alternatives to secure detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.
- (3) The department shall develop and implement a system to immediately notify the Cabinet for Health and Family Services when a status offender or child alleged to be a status offender has been detained for the alleged violation of a valid court order.
- (4) The department may, except as provided in KRS 635.060, charge counties, consolidated local governments, and urban-county governments a per diem not to exceed ninety-four dollars (\$94) for lodging juveniles in state-owned or contracted facilities.
- (5) Detention rates charged by contracting detention facilities shall not exceed the rate

in effect on July 1, 1997, subject to increases approved by the department.

- (6) No juvenile detention facility, as defined in KRS 15A.200, shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.

➔Section 10. KRS 156.095 is amended to read as follows:

- (1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.
- (2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.
  - (a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
  - (b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers'

roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

- (3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:
- (a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;
  - (b) Curriculum content and methods of instruction for each content area, including differentiated instruction;
  - (c) School-based decision making;
  - (d) Assessment literacy;

- (e) Integration of performance-based student assessment into daily classroom instruction;
  - (f) Nongraded primary programs;
  - (g) Research-based instructional practices;
  - (h) Instructional uses of technology;
  - (i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
  - (j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;
  - (k) Educational leadership; and
  - (l) Strategies to incorporate character education throughout the curriculum.
- (4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.
- (5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.
- (a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.
  - (b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees

identified in the mandate or affected by the mandate shall be required to attend the training.

- (c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.
- (6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services shall post on its Web page suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The Web page shall include information related to suicide prevention training opportunities offered by the cabinet or an agency recognized by the cabinet as a training provider.
- (b) By September 1, 2010, and September 1 of each year thereafter, every public middle and high school administrator shall disseminate suicide prevention awareness information to all middle and high school students. The information may be obtained from the Cabinet for Health and Family Services or from a commercially developed suicide prevention training program.
- (7) The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all

programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.

- (8) The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:
- (a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;
  - (b) Plan specific instructional strategies to teach at-risk students;
  - (c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;
  - (d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and
  - (e) Significantly reduce the dropout rate of all students.
- (9) The department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies

throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

**(10) The department shall annually provide to the oversight council established in Section 3 of this Act, the information received from local schools pursuant to Section 11 of this Act.**

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

**Each local school shall annually provide to the Department of Education, through the Kentucky Department of Education's student information system, an assessment of school incidents relating to disruptive behaviors resulting in a complaint, including whether:**

**(1) The incident involved a public offense or noncriminal misconduct;**

**(2) The incident was reported to law enforcement or the court-designated worker and the charge or type of noncriminal misconduct that was the basis of the referral or report; and**

**(3) The report was initiated by a school resource officer.**

➔Section 12. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, **the Kentucky Association of Professional Educators, the Kentucky Association of School Superintendents,** the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:



- (a) Statewide student discipline guidelines to ensure safe schools, including the definition of serious incident for the reporting purposes as identified in KRS 158.444;
  - (b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement; and
  - (c) A model policy to implement the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080.
- (2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.
- (3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles and legal requirements to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.
- (4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.
- (a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and

classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

- (b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.
- (c) The code shall contain:
  - 1. Procedures for identifying, documenting, and reporting incidents of violations of the code and incidents for which reporting is required under KRS 158.156;
  - 2. Procedures for investigating and responding to a complaint or a report of a violation of the code or of an incident for which reporting is required under KRS 158.156, including reporting incidents to the parents, legal guardians, or other persons exercising custodial control or supervision of the students involved;
  - 3. A strategy or method of protecting from retaliation a complainant or person reporting a violation of the code or an incident for which reporting is required under KRS 158.156;
  - 4. A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080, including training for school employees; and
  - 5. Information regarding the consequences of violating the code and violations reportable under KRS 158.154, 158.156, or 158.444.

- (d) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.
- (e) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, legal guardians, or other persons exercising custodial control or supervision shall be provided copies of the code.

➔Section 13. KRS 158.441 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs;~~;~~
- (2) "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district; and
- (3) "School security officer" means a person employed by a local board of education who has been appointed a special law enforcement officer pursuant to KRS 61.902 and who has specialized training to work with youth at a school site.

→Section 14. KRS 159.140 is amended to read as follows:

- (1) The director of pupil personnel, or an assistant appointed under KRS 159.080, shall:
  - (a) Devote his or her entire time to the duties of the office except as provided in subsection (2) of this section;
  - (b) Enforce the compulsory attendance and census laws in the attendance district he or she serves;
  - (c) Acquaint the school with the home conditions of a habitual truant as described in KRS 159.150(3), and the home with the work and advantages of the school;
  - (d) Ascertain the causes of irregular attendance and truancy, through documented contact with the custodian of the student, and seek the elimination of these causes;
  - (e) Secure the enrollment in school of all students who should be enrolled and keep all enrolled students in reasonably regular attendance;
  - (f) Attempt to visit the homes of students who are reported to be in need of books, clothing, or parental care;
  - (g) Provide for the interviewing of students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education;
  - (h) Report to the superintendent of schools in the district in which the student resides the number and cost of books and school supplies needed by any student whose parent, guardian, or custodian does not have sufficient income to furnish the student with the necessary books and school supplies; and

- (i) Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.
- (2) A local school district superintendent may waive the requirement that a director of pupil personnel devote his or her entire time to his or her duties. The superintendent shall report the decision to the commissioner of education.
- (3) In any action brought to enforce compulsory attendance laws, the director of pupil personnel or an assistant shall document the home conditions of the student and the intervention strategies attempted and may, after consultation with the court-designated worker, refer the case to the family accountability, intervention, and response team.

➔Section 15. KRS 159.150 is amended to read as follows:

- (1) Any student who has attained the age of six (6) years, but has not reached his or her eighteenth birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.
- (2) Any student enrolled in a public school who has attained the age of eighteen (18) years, but has not reached his or her twenty-first birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.
- (3) Any student who has been reported as a truant two (2) or more times is an habitual truant.
- (4) For the purposes of establishing a student's status as a truant, the student's attendance record is cumulative for an entire school year. If a student transfers from one (1) Kentucky public school to another during a school year, the receiving school shall incorporate the attendance information provided under KRS 159.170 in the student's official attendance record.

- (5) A local board of education may adopt reasonable policies that:
- (a) Require students to comply with compulsory attendance laws;
  - (b) Require truants and habitual truants to make up unexcused absences; ~~and~~
  - (c) Impose sanctions for noncompliance; and
  - (d) Collaborate and cooperate with the Court of Justice, the Department for Community Based Services, the Department of Juvenile Justice, regional community mental health centers, and other service providers to implement and utilize early intervention and prevention programs, such as truancy diversion, truancy boards, mediation, and alternative dispute resolution to reduce referrals to a court-designated worker.

➔Section 16. KRS 164.2847 is amended to read as follows:

- (1) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution, and if:
- (a) The student's family receives state-funded adoption assistance under KRS 199.555;
  - (b) The student is currently committed to the Cabinet for Health and Family Services under KRS 610.010(5) and placed in a family foster home or is placed in accordance with KRS 605.090(3);
  - (c) The student is in an independent living program and the placement is funded by the Cabinet for Health and Family Services;
  - (d) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Cabinet for Health and Family Services. A student who meets the eligibility criteria of this paragraph and lives outside of

Kentucky at the time of application to a Kentucky postsecondary institution may apply for the waiver up to the amount of tuition for a Kentucky resident;  
or

- (e) The Cabinet for Health and Family Services was the student's legal custodian on his or her eighteenth birthday.
- (2) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Department of Juvenile Justice foster child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and obtains a recommendation for participation from an official from the Department of Juvenile Justice, and if:
- (a) The student has not been sentenced to the Department of Juvenile Justice under KRS Chapter 640;
  - (b) The student has been committed to the Department of Juvenile Justice for a period of at least ***twelve (12) months***~~[two (2) years]~~;
  - (c) The student is in an independent living program and placement is funded by the Department of Juvenile Justice;
  - (d) The parental rights of the student's biological parents have been terminated; or
  - (e) The student was committed to the Cabinet for Health and Family Services prior to a commitment to the Department of Juvenile Justice.
- (3) Upon request of the postsecondary institution, the Cabinet for Health and Family Services shall confirm the eligibility status under subsection (1) of this section and the Department of Juvenile Justice shall confirm the eligibility status and recommendations under subsection (2) of this section of the student seeking to participate in the waiver program. Release of this information shall not constitute a

breach of confidentiality required by KRS 199.570, 610.320, or 620.050.

- (4) The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 10871l, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.
- (5) The student shall be eligible for the tuition waiver:
  - (a) For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and
  - (b) For a period of five (5) years after first admittance to any Kentucky institution if satisfactory progress is achieved or maintained, except when extended in accordance with subsection (6) of this section.
- (6) The expiration of a student's five (5) year eligibility under subsection (5)(b) of this section shall be extended upon a determination by the institution that the student was unable to enroll for or complete an academic term due to serving:
  - (a) On active duty status in the United States Armed Forces;
  - (b) As an officer in the Commissioned Corps of the United States Public Health Service; or
  - (c) On active service in the Peace Corps Act or the Americorps.

The original expiration date shall be extended by the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.
- (7) The Cabinet for Health and Family Services shall report the number of students participating in the tuition waiver program under subsection (1) of this section and



the Department of Juvenile Justice shall report the number of students participating in the tuition waiver program under subsection (2) of this section on October 1 each year to the Council on Postsecondary Education and the Legislative Research Commission.

- (8) The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.
- (9) Nothing in this section shall be construed to:
- (a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;
  - (b) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;
  - (c) Require any postsecondary institution to waive costs or fees relating to room and board; or
  - (d) Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for Health and Family Services from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.

➔Section 17. KRS 200.503 is amended to read as follows:

As used in KRS 200.501 to 200.509, unless the context otherwise requires:

- (1) **"Child with a behavioral health need" means a child with, or at risk of developing, an emotional disability, substance abuse disorder, or mental, emotional, or behavioral needs;**
- (2)** "Child with an emotional disability" means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and seriously limits a child's capacity to function in the home, school, or community;[-]

~~(3)~~~~(2)~~ "Child with a severe emotional disability" means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and that:

- (a) Presents substantial limitations that have persisted for at least one (1) year or are judged by a mental health professional to be at high risk of continuing for one (1) year without professional intervention in at least two (2) of the following five (5) areas: "Self-care," defined as the ability to provide, sustain, and protect his or herself at a level appropriate to his or her age; "Interpersonal relationships," defined as the ability to build and maintain satisfactory relationships with peers and adults; "Family life," defined as the capacity to live in a family or family type environment; "Self-direction," defined as the child's ability to control his or her behavior and to make decisions in a manner appropriate to his or her age; and "Education," defined as the ability to learn social and intellectual skills from teachers in available educational settings; or
- (b) Is a Kentucky resident and is receiving residential treatment for emotional disability through the interstate compact; or
- (c) The Department for Community Based Services has removed the child from the child's home and has been unable to maintain the child in a stable setting due to behavioral or emotional disturbance; or
- (d) Is a person under twenty-one (21) years of age meeting the criteria of paragraph (a) of this subsection and who was receiving services prior to age eighteen (18) that must be continued for therapeutic benefit;~~;~~

~~(4)~~~~(3)~~ "State Family Advisory Council" means the council composed of all parent members or alternate parent members of the state, regional, and local interagency councils for services to children with a behavioral health need~~an emotional disability~~ pursuant to KRS 200.505 and 200.509 and all parent members of

regional policy councils; ~~and~~[-]

~~(5)~~~~(4)~~ "Least restrictive alternative mode of treatment" means treatment given in the least confining setting which will provide a child with an emotional disability or severe emotional disability appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement.

➔Section 18. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children~~[-with an Emotional Disability]~~. The chairperson of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

- (1) This council shall be composed of the following:
  - (a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, the commissioner of the Department for Community Based Services, the commissioner of the Department for Public Health, the commissioner of the Department for Medicaid Services, the commissioner of the Department of Juvenile Justice, the director of the Division of Family Resource and Youth Services Centers, the executive director of the Commission for Children with Special Health Care Needs, and the general manager of the Division of Juvenile Services of the Administrative Offices of the Courts, or their designees;
  - (b) The Governor shall appoint one (1) parent of a child with **a behavioral health need**~~[an emotional disability]~~, who is a consumer of state-funded services for children with **a behavioral health need**~~[an emotional disability]~~ to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory

Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with *a behavioral health need*~~[an emotional disability]~~ during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members;

- (c) The chairperson of the council shall appoint one (1) youth between the ages of fourteen (14) and twenty-five (25), who has a mental health disorder or co-occurring disorder and is or has been a consumer of state-funded services for children with *a behavioral health need*~~[an emotional disability]~~, to serve as a member of the council, and one (1) youth who meets the same criteria to serve as the youth member's alternate in the absence of the youth member. For each appointment to be made, the Statewide Youth Council of the Kentucky Partnership for Families and Children shall submit to the chairperson a list of four (4) names of youth who are qualified for appointment, from which list the chairperson shall make the appointment. Appointees shall serve a term of two (2) years, and the youth member and the youth member's alternate shall be eligible to serve out the remainder of their term of appointment regardless of age. The alternate youth member may attend and participate in all council meetings but shall vote only in the absence of the youth member. The youth

member and alternate youth member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the youth member and alternate youth member shall be reimbursed for expenses incurred through the performance of their duties as council members; and

- (d) At the end of a term, a member shall continue to serve until a successor is appointed.
- (2) The State Interagency Council for Services to Children~~[with an Emotional Disability]~~ shall:
- (a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;
- (b) Direct each regional interagency council to:
1. Coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination; ***and***
  2. ***Participate in family accountability, intervention, and response teams established pursuant to Section 26 of this Act;***
- (c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with ***a behavioral health need***~~[an emotional disability]~~. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child;
- (d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with ***a behavioral health need***~~[an emotional disability]~~ referred by regional councils;
- (e) Assess the effectiveness of regional councils in meeting the service needs of

- children with *a behavioral health need*~~[an emotional disability]~~;
- (f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;
  - (g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;
  - (h) Adopt interagency agreements as necessary for coordinating services to children with *a behavioral health need*~~[an emotional disability]~~ by the agencies represented in the state council;
  - (i) Develop services to meet the needs of children with *a behavioral health need*~~[an emotional disability]~~; and
  - (j) Promote services to prevent the *behavioral health need*~~[emotional disability]~~ of a child.
- (3) The State Interagency Council for Services to Children~~[with an Emotional Disability]~~ may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.
- ➔Section 19. KRS 200.509 is amended to read as follows:
- (1) There are hereby created regional interagency councils for services to children *with a behavioral health need*~~[with an emotional disability]~~. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children *with a*

**behavioral health need**~~[with an emotional disability]~~ shall be chaired by the service region administrator of the Department for Community Based Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

- (a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;
- (b) One (1) **court-designated**~~[court, designated]~~ worker chosen by the Chief Regional District Judge within the region;
- (c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;
- (d) One (1) parent of a child **with a behavioral health need**~~[with an emotional disability]~~, who is a consumer of state-funded services for children **with a behavioral health need**~~[with an emotional disability]~~, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment;
- (e) Any other local public or private agency that provides services to children with **a behavioral health need**~~[an emotional disability]~~ which the regional interagency council may invite to have a representative become a permanent

- or temporary member of the council; and
- (f) Representatives from the Department of Juvenile Justice and local health departments.
- (2) No member of a regional interagency council for services to children with a behavioral health need~~[with an emotional disability]~~ shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.
- (3) Each regional interagency council for services to children with a behavioral health need~~[with an emotional disability]~~ shall perform the following functions:
- (a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;
  - (b) Coordinate the development of interagency service plans for children with a behavioral health need~~[an emotional disability]~~ in the least restrictive alternative mode of treatment;
  - (c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with a behavioral health need~~[an emotional disability]~~;
  - (d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;
  - (e) Initiate and adopt interagency agreements as necessary for providing services to children with a behavioral health need~~[an emotional disability]~~ by the agencies represented in the regional council;
  - (f) Advise the state interagency council regarding service delivery to children with a behavioral health need~~[an emotional disability]~~ within the region;
  - (g) Refer those children for whom the regional councils cannot provide adequate



- services to the state interagency council;
- (h) Implement the uniform grievance procedure established by the state interagency council;
  - (i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child;
  - (j) Recognize local interagency councils for services to children with **a behavioral health need**~~[an emotional disability]~~ when it determines the council would be beneficial to service delivery;~~[and]~~
  - (k) **Participate in family accountability, intervention, and response teams established pursuant to Section 26 of this Act; and**
  - (l) Promote services to ~~meet~~<sup>prevent</sup> the **behavioral health need**~~[emotional disability]~~ of a child.
- (4) The secretary for health and family services and the designee of the State Department of Education shall ensure that regional councils for services to children with **a behavioral health need**~~[an emotional disability]~~ are formed~~[by October 1, 1990]~~.
- (5) Local interagency councils for services to children with **a behavioral health need**~~[an emotional disability]~~ may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with **a behavioral health need**~~[an emotional disability]~~ within a city, county, or other local community.
- ➔Section 20. KRS 438.311 is amended to read as follows:
- (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his

or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product~~[from a family member, except if the child has been committed to the custody of the state under KRS Chapters 600 to 645, or]~~ from an employer when required in the performance of the person's duties.

(2) ~~[Violation of this section shall be punishable by a fine of fifty dollars (\$50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars (\$200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.]~~

~~(3)~~ This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

~~(3)~~~~(4)~~ All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

➔Section 21. KRS 441.055 is amended to read as follows:

(1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:

(a) Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;

2. Fire safety;
  3. Jail operations, recordkeeping, and administration;
  4. Curriculum of basic and continuing annual training for jailers and jail personnel, ~~including training relating to juvenile holding facilities~~;
  5. Custody, care, and treatment of prisoners;
  6. Medical care; and
  7. Jail equipment, renovation, and construction;
- (b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and
- (c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.
- (2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety.
- (3) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

➔Section 22. KRS 532.045 is amended to read as follows:

- (1) As used in this section:
- (a) "Position of authority" means but is not limited to the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative,

household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility~~], a holding facility as defined in KRS 600.020,~~ or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health-care provider, or employer;

- (b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and
  - (c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.
- (2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.050, 510.080, 529.040, 529.070, 529.100 where the offense involves commercial sexual activity, 530.020, 531.310, 531.320, or 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:
- (a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;
  - (b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;
  - (c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the

- purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;
- (d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;
  - (e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;
  - (f) A person convicted of kidnapping a minor in violation of the Kentucky Penal Code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;
  - (g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;
  - (h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or
  - (i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of five (5) years' postincarceration supervision required by KRS 532.043.

- (3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of the comprehensive sex offender presentence evaluation of the offender performed by an approved provider, as defined in KRS 17.500 or the Department of Corrections. The court shall use the comprehensive sex

offender presentence evaluation in determining the appropriateness of probation or conditional discharge.

- (4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board.
- (5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.
- (6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.
- (7) The comprehensive sex offender presentence evaluation and all communications relative to the comprehensive sex offender presentence evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440. The comprehensive sex offender presentence evaluation shall be filed under seal and shall not be made a part of the court record subject to review in appellate proceedings and shall not be made available to the public.
- (8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any comprehensive sex offender presentence evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel and the Commonwealth's attorney a copy of the comprehensive sex offender presentence evaluation. It shall not be necessary to disclose the sources of confidential information.
- (9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

➔Section 23. KRS 600.010 is amended to read as follows:

- (1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.
- (2) KRS Chapters 600 to 645 shall be interpreted to effectuate the following express legislative purposes:
  - (a) The Commonwealth shall direct its efforts to promoting protection of children; to the strengthening and encouragement of family life for the protection and care of children; to ~~strengthening and maintaining~~ *strengthening and maintaining* the biological family unit; *to ensuring that policies and practices utilized are supported by data and research and are monitored or measured for their effectiveness in achieving the intended results;* and to ~~offering~~ *offer* all available resources to any family in need of them;
  - (b) It also shall be declared to be the policy of this Commonwealth that:
    1. All efforts shall be directed toward providing each child a safe and nurturing home;
    2. *Emphasis shall be placed on involving families in interventions developed for youth, providing families with access to services necessary to address issues within the family, and increasing accountability of the youth and families within the juvenile justice system;*
    3. *To the extent possible, out-of-home placement should only be utilized for youth who are high-risk or high-level offenders, and that low-risk, low-level offenders should be served through evidence-based programming in their community; and*
    4. *As the population in Department of Juvenile Justice facilities is reduced through increased use of community-based treatment, and if staffing ratios can be maintained at the levels required by accreditation bodies, reductions of the number of facilities should be considered;*

- (c) The court shall show that other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary;
- (d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated, *through the use of evidence-based programs when available*, to bring about an improvement of his or her condition and, to the extent possible, have that treatment administered in the county of residence of the custodial parent or parents or in the nearest available county;
- (e) KRS Chapter 635 shall be interpreted to promote the best interests of the child through providing treatment and sanctions to reduce recidivism and assist in making the child a productive citizen by *involving the family, as appropriate, and by* advancing the principles of personal responsibility, accountability, and reformation, while maintaining public safety, and seeking restitution and reparation;
- (f) KRS Chapter 640 shall be interpreted to promote public safety and the concept that every child be held accountable for his or her conduct through the use of restitution, reparation, and sanctions, in an effort to rehabilitate delinquent youth; and
- (g) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents and victims, are recognized and all parties are assured prompt and fair hearings. Unless otherwise provided, such protections belong to the child individually and may not be waived by any other party.

➔Section 24. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or



threatened with harm when:

- (a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:
1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
  2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
  3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;
  4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
  5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
  6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
  7. Abandons or exploits the child;
  8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months; or
  - (b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;
- (2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
  - (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
  - (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
  - (c) The parent has sexually abused the child and has refused available treatment;
  - (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
  - (e) The parent has caused the child serious physical injury;
- (3) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;
- (4) "Beyond the control of school" means any child who has been found by the court to

have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

- (5) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- (6) "Cabinet" means the Cabinet for Health and Family Services;
- (7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (8) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;
- (9) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- (10) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- (11) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by

- a qualified mental health professional;
- (12) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law~~[the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order];~~
- (13) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- (14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- (15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- (16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (17) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (18) "Department" means the Department for Community Based Services;
- (19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (20) "Detention" means the safe and temporary custody of a juvenile who is accused of

- conduct subject to the jurisdiction of the court who requires a restricted **or closely supervised** environment for his or her own or the community's protection;
- (21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (22) "Diversion agreement" means **a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services**~~[an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is]~~ to serve the best interest of the child and to provide redress for **that behavior**~~[those offenses]~~ without court action and without the creation of a formal court record;
- (23) "Eligible youth" means a person who:
- (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
  - (b) Is eighteen (18) years of age to nineteen (19) years of age; and
  - (c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;
- (24) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (25) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;
- (26) **"Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;**

(27) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(28)~~(27)~~ "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(29) **"Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:**

**(a) Electronic monitoring;**

**(b) Drug and alcohol screening, testing, or monitoring;**

**(c) Day or evening reporting centers;**

**(d) Reporting requirements;**

**(e) Community service; and**

**(f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;**

(30)~~(28)~~ "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;

(31)~~(29)~~ "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;

(32)~~(30)~~ "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(33)~~(31)~~ "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(34)~~(32)~~ "Informal adjustment" means an agreement reached among the parties, with

consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

~~(35)~~~~(33)~~ "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

~~[(34) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;~~

~~(35) "Juvenile holding facility" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty four (24) hours per day supervision;]~~

(36) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence **to allow for appropriate family engagement;**

(37) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS

Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

- (38) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (39) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (40) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;
- (41) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (42) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- (43) **"Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;**
- (44)** "Parent" means the biological or adoptive mother or father of a child;
- (45)**~~(44)~~ "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (46)**~~(45)~~ "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (47)**~~(46)~~ "Physical injury" means substantial physical pain or any impairment of



physical condition;

~~(48)~~~~(47)~~ "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

~~(49)~~~~(48)~~ "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

~~(50)~~~~(49)~~ "Qualified mental health professional" means:

- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
- (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
- (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
- (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by

the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
- (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or
- (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(51)~~(50)~~ "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(52)~~(51)~~ "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(53) ***"Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal***

**misconduct:**

~~(54)~~~~(52)~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;

~~(55)~~~~(53)~~ "Secretary" means the secretary of the Cabinet for Health and Family Services;

~~(56)~~~~(54)~~ "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

~~(57)~~~~(55)~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

~~(58)~~~~(56)~~ "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

~~(59)~~~~(57)~~ "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided

for under Kentucky law;

~~(60)~~~~(58)~~ "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

~~(61)~~~~(59)~~ "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

~~(62)~~~~(60)~~ (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:

1. Beyond the control of school or beyond the control of parents;
2. Habitual Runaway;
3. Habitual truant;
4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
5. Alcohol offenses as provided in KRS 244.085.

(b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;

~~(63)~~~~(61)~~ "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

~~(64)~~~~(62)~~ "Transitional living support" means all benefits to which an eligible youth is entitled upon being granted extended or reinstated commitment to the cabinet by the court;

~~(65)~~~~(63)~~ "Transition plan" means a plan that is personalized at the direction of the youth that:

- (a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and
- (b) Is as detailed as the youth may elect;

~~(66)~~~~((64))~~ "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:

- (a) Who was brought before the court and made subject to the order;
- (b) Whose future conduct was regulated by the order;
- (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
- (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.

~~(67)~~~~((65))~~ "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

~~(68)~~~~((66))~~ "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

~~(69)~~~~((67))~~ "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔Section 25. KRS 600.060 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 600 to 645, the inherent contempt power of the court shall not be diminished, **except that an order of detention for a child**

found in contempt shall not exceed thirty (30) days.

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in each judicial district a family accountability, intervention, and response team that shall develop enhanced case management plans and opportunities for services for children referred to the team. The family accountability, intervention, and response team shall consist of not more than fifteen (15) persons.

(2) The membership of the team shall include the following representatives as appointed by their agencies or organizations:

(a) A court-designated worker in that judicial circuit or district;

(b) The members of the regional interagency council specified in KRS 200.509(1)(a) to (d) and (f), or corresponding members of the local interagency council if one exists;

(c) A representative from the cabinet knowledgeable about services available through the cabinet and authorized to facilitate access to services;

(d) A representative from the office of a county attorney within the judicial district;

(e) A representative from the Department of Public Advocacy;

(f) A representative from a local public school within the judicial district;

(g) A representative of law enforcement; and

(h) Other persons interested in juvenile justice issues, as identified by the family accountability, intervention, and response team, who are necessary for a complete representation of resources within each judicial circuit or district.

(3) A court-designated worker from within the judicial circuit or district shall lead the team and be responsible for convening and staffing the team.

(4) The team shall adopt a case management approach and process for reviewing:

- (a) Referrals from the court-designated worker involving cases in which a child has failed to appear for a preliminary intake inquiry, declined to enter into a diversion agreement, or failed to complete the terms of the agreement; and
- (b) Status offense cases if the court-designated worker, after reviewing the complaint, has determined that no further action is necessary.
- (5) After reviewing the actions taken by the court-designated worker, including referrals made for the child and his or her family, efforts to address barriers to successful completion, and whether other appropriate services are available to address the needs of the child and his or her family, the team may:
- (a) Refer the case back to the court-designated worker to take further action as recommended by the team; or
- (b) Advise the court-designated worker to refer the case to the county attorney if the team has no further recommendations to offer.

➔Section 27. KRS 605.020 is amended to read as follows:

- (1) Standards for the employment of court-designated workers shall be set by the Administrative Office of the Courts.
- (2) If the Administrative Office of the Courts contracts with a public agency for the provision of the court-designated worker or workers, the contract shall specify that it is for the services, in part or in whole, of named personnel of that agency and no others. Personnel of a public agency under contract to the Administrative Office of the Courts selected as court-designated workers shall be selected in the manner set forth in the contract by and between the public agency and the Administrative Office of the Courts; shall be under the control of the Administrative Office of the Courts and the court to which they are assigned; and shall be subject to the same powers, duties, and restrictions as are court-designated workers employed by the Administrative Office of the Courts.

- (3) Court-designated workers, whether employed by the Administrative Office of the Courts or by a public agency under contract to the Administrative Office of the Courts, may be disciplined or removed from the position of court-designated worker in the manner specified in the:
- (a) Personnel policies for employees of the Administrative Office of the Courts or the personnel policies of the contract agencies as approved by the Administrative Office of the Courts; and
  - (b) Contract by and between the public agency and the Administrative Office of the Courts.
- (4) The Administrative Office of the Courts shall not contract with private corporations, persons, or agencies for the services of court-designated workers.
- (5) The Administrative Office of the Courts shall provide training to all court-designated workers in:**
- (a) The administration of evidence-based screening instruments and, for some workers as appropriate, the administration of risk and needs assessments;**
  - (b) Identification of appropriate services for children and families;**
  - (c) Techniques for diversion agreement implementation and supervision;**
  - (d) Identifying and understanding the issues that led to the filing of a complaint, which may include recognition of signs of trauma, disability, behavioral, mental health, or substance abuse issues, in order to determine appropriate referrals; and**
  - (e) Juvenile justice research, best practices, and any other subject deemed appropriate and available.**
- (6) (a) The Administrative Office of the Courts shall collect and track data, and provide an annual report to the oversight council created in Section 3 of this Act containing the following information:**
- 1. The number and type of complaints received by each court-designated**



worker;

2. The outcome of each complaint, including whether a referral was made to the county attorney or the Department for Community Based Services;

3. The number of children committed to the Department for Community Based Services pursuant to KRS Chapter 620 who were originally charged with status offenses under KRS Chapter 630 or whose cases were amended from status to dependency, neglect, and abuse; and

4. Whether a child who successfully completed a diversion agreement was, within one (1) year following completion of the agreement, adjudicated a public offender or convicted in the adult court of a criminal offense.

(b) Personally identifiable information of the court-designated worker shall not be provided but shall be retained by the Administrative Office of the Courts to address the need for additional staff training or other appropriate action.

(7) The Administrative Office of the Courts shall develop a graduated response protocol, consisting of a continuum of responses from the least restrictive to the most restrictive, for court-designated workers to utilize in response to violations of the terms of a diversion agreement.

(8) The Administrative Office of the Courts shall collaborate with the Justice and Public Safety Cabinet and provide technical assistance to judicial districts in implementing the fiscal incentive program established in Section 2 of this Act.

(9) The Administrative Office of the Courts shall act as the fiscal agent to receive funds awarded pursuant to Section 2 of this Act.

10) The Administrative Office of the Courts shall, by regulation, establish a form complaint to be used in filing all complaints with the court-designated worker. The form shall contain the requirements of KRS 610.020, and if the complaint is

filed by a school district, shall require that the director of pupil personnel state that he or she documented the home conditions of the student and the intervention strategies attempted, as required by Section 14 of this Act, and that he or she attempted to conduct a conference with the child and a parent.

➔Section 28. KRS 605.030 is amended to read as follows:

- (1) A court-designated worker may:
  - (a) Receive complaints;
  - (b) Review complaints taken by peace officers;
  - (c) Investigate complaints except neglect, abuse, and dependency;
  - (d) Perform an initial screening for human trafficking as defined in KRS 529.010 for referral to the cabinet for investigation as a case of dependency, neglect, or abuse;
  - (e) Dispose of complaints limited to a total of three (3) status or nonfelony public offense complaints per child and, with written approval of the county attorney, one (1) felony complaint that does not involve the commission of a sexual offense or the use of a deadly weapon;
  - (f) Administer oaths;
  - (g) Issue summonses;
  - (h) Issue subpoenas;
  - (i) Make advisory dispositional recommendations and provide, within forty-eight (48) hours, exclusive of weekends and holidays, information concerning a child who has chosen to waive the investigation pursuant to KRS 610.100 ~~for the use of the cabinet in placing the child;~~
  - (j) Perform such duties as required by KRS Chapter 645;~~and~~
  - (k) Administer evidence-based screenings and assessments to identify the risk and needs of a child and his or her family;
  - (l) Enter into diversion agreements, including referral to programs or service

providers, providing case management and service coordination, assisting with barriers to completion, and monitoring progress;

(m) Impose graduated sanctions, from least restrictive to most restrictive, in response to violations of the terms of a diversion agreement;

(n) Gather information necessary to track and record outcomes of all diversion agreement recommendations and final diversion disposition;

(o) Collaborate and cooperate with the family accountability, intervention, and response team, director of pupil personnel as appropriate, and service providers to ensure all appropriate interventions are utilized;

(p) Report annually to his or her local public school districts and to the Administrative Office of the Courts an inventory of all programs and service providers within the judicial district they serve;

(q) Request from the schools a student's education records pursuant to Section 54 of this Act; and

(r) Perform such other functions related to activities of children as may be authorized or directed by the court.

(2) Upon the filing of a petition which initiates a formal court action in the interest of the child, the court-designated worker's involvement, with the exception of the activities defined in subsection (1)(i) of this section, shall cease.

(3) When a child is to be tried as an adult, the court-designated worker need not make dispositional recommendations.

➔Section 29. KRS 605.050 is amended to read as follows:

(1) In counties containing a city of the first or second class, the county judge/executive may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses

incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge/executive but shall be subject to the direction and control of the judges of the District Court in the performance of their duties. The officers shall be peace officers who shall possess all the powers of peace officers in carrying out the purposes of KRS Chapters 600 to 645. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his probation.

- (2) In counties containing an urban-county government, the mayor shall appoint a chief probation officer of the juvenile session of the District Court and such number of assistant probation officers, professional and clerical personnel as are reasonably necessary for the operation of the juvenile session of the District Court. Such officers shall receive reasonable salaries to be fixed by the urban-county council, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the urban-county treasury. The officers shall serve at the pleasure of the mayor but shall be subject to the direction and control of the judges of the District Court in the performance of their duties. The officers shall be peace officers who shall possess all the powers of peace officers in carrying out the purposes of KRS Chapters 600 to 645. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his probation.
- (3) In any county, the Chief District Judge may appoint or designate one (1) or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile session. Such volunteer probation officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court or the urban-county council, as appropriate, may authorize the payment of compensation and reasonable expenses out of the county or urban-county treasury of any such officers.

**(4) Officers appointed pursuant to this section shall be trained in the administration of a validated risk and needs assessment.**

➔Section 30. KRS 605.060 is amended to read as follows:

Probation officers **appointed pursuant to KRS 605.050**~~[of the court]~~ shall:

- (1) Except as otherwise provided in KRS Chapter 645, make investigations as provided in this chapter, **including the administration of a validated risk and needs assessment**;
- (2) Be present in court to represent the interest of the child when the cases investigated by them are heard, furnish such information as may be required, **including the results of a validated risk and needs assessment**, advise the court as to the proper disposition of the case and take such charge of the child before and after the hearings as may be ordered;
- (3) Visit and supervise children placed on probation and as far as practicable, aid and encourage such children, by friendly advice and admonition, to keep terms of their probation, and provide for their rehabilitation;
- (4) Make such reports and records as may be required by the court;
- (5) Supervise the transfer of children to and from homes or facilities as directed by the court; and
- (6) Work in cooperation with the representatives of the cabinet.

➔Section 31. KRS 605.100 is amended to read as follows:

- (1) The Department of Juvenile Justice or the cabinet shall arrange for a program of care, treatment, and rehabilitation of the children committed to it, which program shall be designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics, **as identified through a validated needs and risk assessment**, and to provide a coordinated system of probation and parole services **that includes a continuum of graduated sanctions**.

- (2) The Department of Juvenile Justice or the cabinet shall be responsible for the operation, management, and development of the existing state facilities for the custodial care and rehabilitation of children committed to the Department of Juvenile Justice or the cabinet under provisions of this chapter. The Department of Juvenile Justice or the cabinet shall further be responsible for the development of such facilities as are necessary to provide an adequate and modern program for the care, treatment, and rehabilitation of such children.
- (3) The facilities and programs under the control of the Department of Juvenile Justice or the cabinet shall be designed and operated in such a manner as to rehabilitate, train, develop, and educate the children to become good citizens and useful members of society.
- (4) Suitable programs of vocational education and training shall be carried on in the facilities and programs, with the view of preparing the children for future self-support.
- (5) The children in each facility and program shall be employed so far as practicable in labor incident to the maintenance and operation of the facility and program, and in suitable industries conducted by the facilities and programs as a part of the vocational training program.
- (6) The superintendent or managing officer of each facility may use, for the maintenance of the facility, the products of farms, dairies, and other departments and industries of the facility or may sell or exchange such products for the benefit of the facility.

➔Section 32. KRS 605.130 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the cabinet, through its authorized representatives, shall have general supervision and management of all matters contained in KRS 620.150 and 620.170 and shall, wherever possible:

- (1) Locate and plan for all children who are dependent, neglected, or abused;

- (2) Cooperate with and assist the courts of the various counties;
- (3) Assist Circuit Courts through services to children whenever requested by the court.  
The cabinet may charge a reasonable fee for such services to be taxed as costs by the court; ~~and~~
- (4) (a) Assess all referrals received from a court-designated worker, pursuant to direction from the family accountability, intervention, and response team, to determine whether a basis exists to file a dependency, neglect, or abuse petition;
- (b) Track and report to the oversight council created in Section 3 of this Act the number of referrals received, the number of investigations made upon those referrals, and the number and type of petitions filed in response;
- (5) Identify all youth who have status offense charges and are committed or probated to the cabinet and report the number of committed and probated youth to the oversight council created in Section 3 of this Act; and
- (6) Perform such other services as may be deemed necessary for the protection of children.

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

- (1) Upon the court's motion or the motion of any party, following notice to the county attorney, an informal adjustment may be made at any time during the proceedings and with the victim and with those persons specified in KRS 610.070 having prior notification of the motion.
- (2) An informal adjustment does not require adjudication of the case. If an adjudication has occurred, the court shall dismiss the case following successful completion under subsection (3) of this section.
- (3) If the court orders an informal adjustment, the order may include any of the following:

- (a) Referral of the case to diversion, but, if the child does not successfully complete the terms of the diversion, the case shall not be dismissed as a result of the diversion but shall be returned to court; or
- (b) Placement of the child on community supervision or monitoring by the court under the informal adjustment with additional conditions as determined appropriate by the court for a period not to exceed six (6) months.

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

- (1) The District Court or the family division of the Circuit Court shall have exclusive jurisdiction of proceedings under this section.
- (2) Proceedings to temporarily detain a child suspected of being a runaway by means of an emergency protective custody order, pending further appropriate court action, shall be initiated by filing a complaint with the court-designated worker.
- (3) Notwithstanding any other provision of law to the contrary, a child who is suspected of being a runaway may be detained in a nonsecure facility for a period of time not to exceed seventy-two (72) hours, exclusive of weekends and holidays, or, if the court makes a finding on the record that no less restrictive alternative is available, in a secure juvenile detention facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pursuant to an ex parte emergency protective order pending a court hearing to determine whether to return the child to his or her custodian or give custody of the child to the cabinet.
- (4) If, at the hearing held as provided for in subsection (3) of this section, the child is not released, the court shall issue an emergency custody order pursuant to KRS Chapter 620 and place the child with the cabinet and the cabinet shall file a dependency, neglect, or abuse action.



- (5) All hearings subsequent to the issuance of an emergency custody order shall be in accordance with KRS Chapter 620.**
- (6) If the child is released, except to the cabinet pursuant to an emergency custody order, the court-designated worker shall initiate a status offense case.**
- (7) The provisions of this section shall not apply to a child coming under the purview of KRS Chapter 615.**

➔Section 35. KRS 610.010 is amended to read as follows:

- (1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

- (2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:
  - (a) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
  - (b) Is an habitual truant from school;
  - (c) Is an habitual runaway from his or her parent or other person exercising custodial control or supervision of the child;
  - (d) Is dependent, neglected, or abused;
  - (e) Has committed an alcohol offense in violation of KRS 244.085;
  - (f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or
  - (g) Is mentally ill.
- (3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.
- (4) Actions brought under subsection (2)(a), (b), (c), (e), and (f) of this section shall be considered to be status offense actions.
- (5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.
- (6) Actions brought under subsection (2)(g) of this section shall be considered to be mental health actions.
- (7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.

- (8) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.
- (9) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in KRS 605.120, it may make temporary orders for the child's custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.
- (10) The court of each county wherein a public offense, as defined in subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.
- (11) Nothing in this chapter shall prevent the court from holding a child in contempt of court to enforce valid court orders previously issued by the court, subject to the requirements contained in KRS 610.265 and 630.080.
- (12) Except as provided in subsection (4) of Section 47 of this Act, KRS 630.120(5), ~~{635.060(3), }~~ or 635.090, nothing in this chapter shall confer upon the District Court or the family division of the Circuit Court, as appropriate, jurisdiction over

the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or committed to or in the custody of the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or committed to or in the custody of the cabinet.

- (13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.
- (14) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, **completes a disposition pursuant to Section 47 of this Act**, or reaches the age of eighteen (18) years.

➔Section 36. KRS 610.030 is amended to read as follows:

Except as otherwise provided in KRS Chapters 600 to 645:

- (1) If any person files a complaint alleging that a child, except a child alleged to be neglected, abused, dependent or mentally ill who is subject to the jurisdiction of the court, may be within the purview of KRS Chapters 600 to 645, ~~[a preliminary intake inquiry shall be conducted by ]~~the court-designated worker **shall make a preliminary determination as to whether the complaint is complete. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request additional information in order to complete the complaint.**

*The complainant shall promptly furnish the additional information requested;*

*(2) (a) Upon receipt of a complaint which appears to be complete and which alleges that a child has committed a public offense, the court-designated worker shall refer the complaint to the county attorney for review pursuant to Section 45 of this Act.*

*(b) If after review the county attorney elects to proceed, the court-designated worker shall conduct a preliminary intake inquiry to recommend whether the interests of the child or the public require that further action be taken or whether, in the interest of justice, the complaint can be resolved informally without the filing of a petition;*

*(3) Upon receipt of a complaint that appears to be complete and that alleges that the child has committed a status offense, the court-designated worker shall conduct a preliminary intake inquiry to determine whether the interests of the child or the public require that further action be taken;*

*(4) Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian, or other person exercising custodial control or supervision of the child in writing:*

*(a) Of their opportunity to be present at the preliminary intake inquiry;*

*(b) That they may have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;*

*(c) 1. That all information supplied by the child to a court-designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child.*

*2. Information may be shared between treatment providers, the court-designated worker, and the family accountability, intervention, and response team to enable the court-designated worker to facilitate*

services and facilitate compliance with the diversion agreement; and

(d) That the child has the right to deny the allegation and demand a formal court hearing;

(5) The preliminary intake inquiry shall include the administration of an evidence-based screening tool and, if appropriate and available, a validated risk and needs assessment, in order to identify whether the child and his or her family are in need of services and the level of intervention needed;

(6) Upon the completion of the preliminary intake inquiry, the court-designated worker may:

(a) If the complaint alleges a status offense, determine that no further action be taken subject to review by the family accountability, intervention, and response team;

(b) If the complaint alleges a public offense, refer the complaint to the county attorney;

(c) Refer a public offense complaint for informal adjustment; or

(d) Based upon the results of the preliminary intake inquiry, other information obtained, and a determination that the interests of the child and the public would be better served, and with the written approval of the county attorney for a public offense complaint, if necessary, conduct a formal conference and enter into a diversion agreement;

(7) Upon receiving written approval of the county attorney, if necessary, to divert a public offense complaint, and prior to conducting a formal conference, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense:

(a) Of the recommendation and the reasons therefor and that the complainant, victim, or law enforcement agency may submit within ten (10) days from receipt of such notice a complaint to the county attorney for special review;

or

(b) In the case of a misdemeanor diverted pursuant to subsection (4) of Section 45 of this Act, of the fact that the child was statutorily entitled to divert the case;

(8) A formal conference shall include the child and his or her parent, guardian, or other person exercising custodial control or supervision. The formal conference shall be used to:

(a) Present information obtained at the preliminary intake inquiry; and

(b) Develop a diversion agreement that shall require that the child regularly attend school, shall not exceed six (6) months in duration, and may include:

1. Referral of the child, and family if appropriate, to a public or private entity or person for the provision of identified services to address the complaint or assessed needs;

2. Referral of the child, and family if appropriate, to a community service program within the limitations provided under subsection (2) of Section 48 of this Act;

3. Restitution, limited to the actual pecuniary loss suffered by the victim, if the child has the means or ability to make restitution;

4. Notification that the court-designated worker may apply graduated sanctions for failure to comply with the diversion agreement;

5. Any other program or effort which reasonably benefits the community and the child; and

6. A plan for monitoring the child's progress and completion of the agreement;

(9) (a) If a child successfully completes a diversion agreement, the underlying complaint shall be dismissed and further action related to that complaint shall be prohibited.

(b) If a child fails to appear for a preliminary intake inquiry, declines to enter into a diversion agreement, or fails to complete a diversion agreement, then:

1. For a public offense complaint, the matter shall be referred to the county attorney for formal court action and, if a petition is filed, the child may request that the court dismiss the complaint based upon his or her substantial compliance with the terms of diversion; and

2. For a status offense complaint, the court-designated worker shall refer the matter to the family accountability, intervention, and response team for review and further action ~~to determine the validity of the complaint, and, if valid, whether the interests of the child or the public require that further action be taken;~~

~~(2) The court designated worker after conducting the preliminary intake inquiry shall:~~

~~(a) With notice to the complainant:~~

~~1. Determine that no further action be taken and dispose of the complaint;~~

~~2. Refer to an appropriate individual or social service agency for proper action;~~

~~3. Enter into diversionary agreement;~~

~~4. Refer to court for informal adjustment; or~~

~~5. Refer to court for formal hearing];~~

(10)~~(3)~~ If a~~the court-designated worker determines that the~~ complaint is~~is~~ ~~should be~~ referred to the court ~~for either informal adjustment or for formal hearing under subsection (2)(a)4. or 5. of this section~~, the complaint and findings of the court-designated worker's preliminary intake inquiry shall be submitted to the court for the court to determine whether process should issue; and

(11)~~(4)~~ At any stage in the proceedings described in this section, the court or the county attorney may review any decision of the court-designated worker. The court upon its own motion or upon written request of the county attorney may refer any



complaint for a formal hearing.

➔Section 37. KRS 610.100 is amended to read as follows:

- (1) Unless there is a suitable prior disposition investigation report or unless waived by the child who is represented by counsel, before making disposition of the case of a child brought before the court under the provisions of KRS Chapters 630 or 635, whether by complaint pursuant to KRS 610.020, or by reason of having been taken into custody pursuant to KRS 610.190, the judge shall cause an investigation to be made concerning the nature of the specific act complained of and any surrounding circumstances which suggest the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation, and everything that may pertain to his or her life, and character. The investigation shall also include an inquiry into the home conditions, life, and character of the person having custody of the child. The investigation shall also include an assessment of the parent or guardian's ability to pay all or part of the cost of the child's care and treatment should the child be ordered into a treatment program or placed on supervised probation. The result of the investigation, including the result of the validated risk and needs assessment, shall be reported in writing to the court and to counsel for the parties three (3) days prior to the child's dispositional hearing and shall become a part of the record of the proceedings. The child may waive the three (3) day requirement. Objections by counsel at the dispositional hearing to portions of the dispositional report shall be noted in the record.
- (2) The investigation shall be conducted by a suitable public or private agency. The cabinet and the Department of Juvenile Justice may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county government may enter into a contract on behalf of his or her county with the Department of Juvenile

Justice or the cabinet for the furnishings of such services.

~~[(3) Upon the court's motion or the motion of any party, an informal adjustment may be made at any time during the proceedings and with the victim and with those persons specified in KRS 610.070 having prior notification of the motion.]~~

➔Section 38. KRS 610.110 is amended to read as follows:

- (1) The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child under the provisions of KRS Chapter 630 or 635.
- (2) At the disposition, all information helpful in making a proper disposition, including oral and written reports **and the results of a validated risk and needs assessment**, shall be received by the court in compliance with subsection (1) of this section and relied upon to the extent of their probative value, provided that the parties or their counsel shall be afforded an opportunity to examine and controvert the reports.
- (3) The court shall, and the Department of Juvenile Justice may upon request, notify the law enforcement agency of the child's city, county, or urban-county of residence as appropriate and the law enforcement agencies where any offense was committed of the disposition of each case and of each child committed by the court who is placed in a residential treatment facility by the Department of Juvenile Justice or the cabinet.
- (4) If any court commits a child to the Department of Juvenile Justice or the cabinet, a child-caring facility, or child-placing agency, the court shall cause to be transmitted to the Department of Juvenile Justice or the cabinet, facility, or agency, as appropriate, a certified copy of the commitment order, together with a summary of the court's information concerning the child. A certified copy of the court order shall be proof of the authority of the Department of Juvenile Justice or the cabinet, facility, or agency to hold the child. Such certified order shall be sufficient authority for any law enforcement officer to take into custody any person named therein and deliver him **or her** to such a place as shall be directed by the Department of Juvenile

Justice or the cabinet, facility, or agency given custody of him or her in the order.

- (5) In placing a child on probation in a home or boarding home, or in committing a child to a child-caring facility or child-placing agency, the court shall as far as practicable select a home, facility, or agency operated or governed by persons of a similar religious faith as the parents of the child.
- (6) Upon motion of the child and agreement of the Department of Juvenile Justice or the cabinet, as appropriate, the court may authorize an extension of commitment up to age twenty-one (21) for the purpose of permitting the Department of Juvenile Justice or the cabinet, as appropriate, to assist the child in establishing independent living arrangements if a return to the child's home is not in his or her best interest.

➔Section 39. KRS 610.120 is amended to read as follows:

- (1) Except as otherwise provided by KRS Chapters 605 and 635, an order of commitment or an order of ~~protective~~supervision or probation made by the court in the case of a child may be ~~continued or~~terminated at any time prior to expiration on the court's own initiative or on motion by:
  - (a) A child who is affected by an order of juvenile session of District Court;
  - (b) The family, custodian, guardian, or legal representative of such a child;
  - (c) The Department of Juvenile Justice or the cabinet;
  - (d) The county attorney of the county in which the committing court presides; or
  - (e) Any other person having an interest in the welfare of the child.
- (2) Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not responded to or benefited from treatment or the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires termination of the order. Upon review of the child's case, the Department

of Juvenile Justice, the cabinet, any agency, facility, or individual responsible for the supervision, care, or treatment of the child shall divulge and communicate such information regarding the child as the court may require.

- (3) Except as otherwise provided by KRS Chapter 640 relating to youthful offenders, and KRS 610.110, 620.140, 635.060, 635.090, ~~for 635.515,~~ **or 645.140,** relating to extending commitment beyond the age of eighteen (18), an order of commitment, temporary custody, or an order of ~~protective~~ supervision or probation made by the court in the case of a child shall be terminated when the child attains the age of eighteen (18) **unless otherwise provided in law.** At least fourteen (14) days prior to the **termination of an order of commitment**~~[committed child's eighteenth birthday]~~, the Department of Juvenile Justice or the cabinet shall prepare a summary of the information concerning the child and submit it with written notification to the committing court that a child's commitment is due to expire.

➔Section 40. KRS 610.190 is amended to read as follows:

- (1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest until the court has made the decision to try the child in Circuit or District Court as an adult. The law relating to bail shall not be applicable to children detained in accordance with this chapter unless the child is subject to being tried in Circuit or District Court as an adult.
- (2) **A peace officer may take a child into protective custody if the officer suspects the child to be a runaway. A child taken into protective custody under this subsection shall not be considered to have been arrested and may be held at the locations specified in subsection (1) of Section 42 of this Act, after which the officer shall proceed with an initial investigation as provided for in Section 41 of this Act.**
- (3) When a child is taken into custody by a person other than a peace officer, such

person shall as soon as possible place the child in the custody of a peace officer.

➔Section 41. KRS 610.200 is amended to read as follows:

- (1) When a peace officer has taken or received a child into custody on a charge of committing an offense, the officer shall immediately inform the child of his constitutional rights and afford him the protections required thereunder, notify the parent, or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate, and if the parent is not available, then a relative, guardian, or person exercising custodial control or supervision of the child, that the child has been taken into custody, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for taking the child into custody.
- (2) (a) When a peace officer has taken or received a child into protective custody on suspicion of being a runaway, the officer shall immediately notify:
  1. The child's parent, guardian, or person exercising custodial control or supervision of the child, if determined;
  2. The cabinet or Department of Juvenile Justice, if appropriate; and
  3. The court-designated worker.
- (b) If the parent, guardian, or other person exercising custodial control or supervision is identified and notified, the peace officer may retain custody of the child for a reasonable period to allow the person notified the opportunity to arrive at the officer's location and collect the child.
- (c) If the parent, guardian, or other person exercising custodial control or supervision cannot be identified or located, the peace officer may retain custody of the child for a period of time not to exceed two (2) hours to continue his or her investigation.
- (d) If, at the conclusion of the peace officer's investigation, the parent, guardian, or person exercising custodial control or supervision of the child

*is identified and notified, the peace officer shall return the child to the custody of that person and shall file a status offense case with the court-designated worker.*

*(e) If, at the conclusion of the peace officer's investigation, the parent, guardian, or person exercising custodial control or supervision of the child cannot be identified or located, or that person refuses to collect the child, the peace officer shall file a complaint pursuant to Section 34 of this Act.*

**(3)** Unless the child is subject to trial as an adult or unless the nature of the offense or other circumstances are such as to indicate the necessity of retaining the child in custody, the officer shall release the child to the custody of his parent or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate; or if the parent is not available, then a relative, guardian, or person exercising custodial control or supervision or other responsible person or agency approved by the court upon the written promise, signed by such person or agency, to bring the child to the court at a stated time or at such time as the court may order. The written promise, accompanied by a written report by the officer, shall be submitted forthwith to the court or court-designated worker and shall detail the reasons for having taken custody of the child, the release of the child, the person to whom the child was released, and the reasons for the release.

~~**(4)**~~**(3)** **(a)** If the person fails to produce the child as agreed or upon notice from the Court *as provided in subsection (3) of this section*, a summons, warrant, or custody order may be issued for the apprehension of the person or of the child, or both.

*(b) If the person notified to collect a suspected runaway pursuant to subsection (2)(a) of this section fails or refuses to collect the child, the peace officer shall notify the county attorney, who may file a charge of endangering the welfare of a minor, and the cabinet.*

~~(5)~~~~(4)~~ The release of a child pursuant to this section shall not preclude a peace officer from proceeding with a complaint against a child or any other person.

~~(6)~~~~(5)~~ Unless the child is subject to trial as an adult, if the child is not released, the peace officer shall contact the court-designated worker who may:

- (a) Release the child to his parents;
- (b) Release the child to such other persons or organizations as are authorized by law;
- (c) Release the child to either of the above subject to stated conditions; or
- (d) Except as provided in subsection ~~(7)~~~~(6)~~ of this section, authorize the peace officer to retain custody of the child for an additional period not to exceed twelve (12) hours during which the peace officer may transport the child to a secure juvenile detention facility~~, a juvenile holding facility,~~ or a nonsecure facility. If the child is retained in custody, the court-designated worker shall give notice to the child's parents or person exercising custodial control or supervision of the fact that the child is being retained in custody.

~~(7)~~~~(6)~~ (a) Except as provided in paragraph (b) of this subsection, no child ten (10) years of age or under shall be taken to or placed in a juvenile detention facility.

- (b) Any child ten (10) years of age or under who has been charged with the commission of a capital offense or with an offense designated as a Class A or Class B felony may be taken to or placed in a secure juvenile detention facility or youth alternative center when there is no available less restrictive alternative.

➔Section 42. KRS 610.220 is amended to read as follows:

- (1) Except as otherwise provided by statute, if an officer takes or receives a child into custody **on an allegation of committing a public offense or into protective custody on being a suspected runaway**, the child may be held at a police station, secure

juvenile detention facility, ~~juvenile holding facility, intermittent holding facility,~~  
~~youth alternative center, a nonsecure facility, or, as necessary, in a hospital or clinic~~  
for the following purposes:

- (a) Identification and booking;
  - (b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian,~~or~~ other responsible person, **or the cabinet**;
  - (c) Photographing;
  - (d) Fingerprinting;
  - (e) Physical examinations, including examinations for evidence;
  - (f) Evidence collection, including scientific tests;
  - (g) Records checks;
  - (h) Determining whether the child is subject to trial as an adult; and
    - (i) Other inquiries of a preliminary nature.
- (2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200~~(6)(5)~~(d) and the child may be retained in custody for up to an additional ten (10) hours at a facility of the type listed in subsection (1) of this section except for an intermittent holding facility for the period of retention.
- (3) Any child held in custody pursuant to this section shall be sight and sound separated from any adult prisoners held in secure custody at the same location, and shall not be handcuffed to or otherwise securely attached to any stationary object.

➔Section 43. KRS 610.265 is amended to read as follows:

- (1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be



detained in a nonsecure facility or a secure juvenile detention facility ~~or a juvenile holding facility~~ for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility ~~or a juvenile holding facility~~ *a nonsecure setting approved by the Department of Juvenile Justice* for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays ~~or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty four (24) hours, exclusive of weekends and holidays~~, pending a detention hearing.

- (2) Within the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.
- (3) If the court orders a child detained further, that detention shall be served as follows:
  - (a) If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in ~~either~~ a secure juvenile detention facility ~~or a juvenile holding facility~~ pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance; ~~;~~
  - (b) Except as provided in KRS 630.080(2), if it is alleged that the child is a status offender, the child may be detained in a secure juvenile detention facility for a period not to exceed twenty-four (24) hours after which detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance; ~~;~~

- (c) If a status offender or a child alleged to be a status offender is charged with violating a valid court order, the child may be detained in a secure juvenile detention facility,~~[ a juvenile holding facility,]~~ or in a nonsecure setting approved by the Department of Juvenile Justice, for a period not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending the child's next court appearance;~~[-]~~
- (d) Prior to ordering a status offender or alleged status offender who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:
1. Affirm that the requirements for a valid court order were met at the time the original order was issued;
  2. Make a determination during the adjudicatory hearing that the child violated the valid court order; and
  3. Within forty-eight (48) hours after the adjudicatory hearing on the violation of a valid court order by the child, exclusive of weekends and holidays, receive and review a written report prepared by an appropriate public agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a prior written report is included in the child's file, that report shall not be used to satisfy this requirement. The child may be securely detained for a period not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending receipt and review of the report by the court. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the

secure or nonsecure detention of a status offender; and}]

- (e) ~~[If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.~~
- (f) ~~]~~If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.
- (4) If, at the hearing conducted under subsection (2) of this section, the court conducts an adjudicatory hearing on the merits of a violation of a valid court order, that hearing shall conform to the requirements of KRS 630.080.
- (5) If the detention hearing is not held as provided in subsection (1) of this section, the child shall be released as provided in KRS 610.290.
- (6) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult, and the Department of Juvenile Justice or the cabinet, as appropriate.

➔Section 44. KRS 610.266 is amended to read as follows:

The following persons shall not be detained in a secure juvenile detention facility ~~or a juvenile holding facility~~:

- (1) A nonoffender; or

- (2) Any child charged with a violation of a statute or local ordinance pertaining to curfew.

➔Section 45. KRS 635.010 is amended to read as follows:

- (1) ~~In each District Court, the court designated worker shall receive complaints alleging that a public offense has been committed. All cases governed by KRS Chapter 635 requiring Circuit Court action or 640 requiring Circuit Court action shall be set for arraignment. All other public offenses shall be proceeded against in accordance with the following:~~

- (a) ~~The county attorney shall cause a review to be made of each complaint~~ **alleging that a public offense has been committed.** The purpose of this review shall be to determine from the available evidence whether there are reasonable grounds to believe that the alleged facts would constitute a public offense. The county attorney may elect not to proceed with the complaint, **regardless of whether reasonable grounds exist,** and ~~shall~~ dismiss the complaint.;

- (b) ~~In the event the county attorney elects to proceed, the court designated worker shall make a preliminary determination as to whether the complaint is complete, consulting with the county attorney as may be necessary. In any case where the court designated worker finds that the complaint is incomplete, the court designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request, and the complainant shall promptly thereafter furnish, additional information in order to complete the complaint. If the court designated worker determines that the complaint is complete, he shall conduct a preliminary intake inquiry concerning such complaint to determine whether in the interest of justice the complaint can be resolved informally without the filing of a petition. The court designated worker may recommend~~

~~that a petition be filed. Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian or other person exercising custodial control or supervision of the child in writing:~~

- ~~1. Of their opportunity to be present at the preliminary intake inquiry;~~
- ~~2. Of their right to have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;~~
- ~~3. That their participation in the preliminary intake inquiry or any resulting plan of diversion is voluntary;~~
- ~~4. That all information supplied by the child to a court-designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child; and~~
- ~~5. That the child has the right to deny the charge and demand a formal court hearing;~~

~~(e) Upon the completion of the preliminary intake inquiry, the court-designated worker shall conduct a formal conference at which time he shall present information obtained at the preliminary intake inquiry to the child and the child's parents or other person exercising custodial control or supervision. The court-designated worker shall set forth in writing alternative referral programs available to the child and the criteria the court-designated worker used to determine whether to proceed with a diversionary agreement or whether to refer the matter for the filing of a public offense petition. If the court-designated worker determines that, in his judgment, the interests of the child and the public will be thereby best served, with the written approval of the county attorney he may recommend that a public offense petition not be filed. If such a recommendation is made, the court-designated worker shall advise in~~

~~writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor and that the complainant, victim, or law enforcement agency may submit within ten (10) days from receipt of such notice a complaint to the county attorney for special review;~~

~~(d) — ]~~

**(2)** The county attorney, upon receipt of a request for special review, shall consider the facts presented by the complainant and by the court-designated worker who made the recommendation that no petition be filed, before the county attorney makes a final decision as to whether a public offense petition shall or shall not be filed.

**(3)** In all cases in which the child is alleged to have committed a public offense and is not detained, the court-designated worker shall submit his written recommendation to the county attorney or designee within twenty (20) days, exclusive of weekends and holidays, from the date the child was taken into custody or the complaint was filed. In cases where the child is detained, the court-designated worker's report shall be submitted within seventy-two (72) hours of the time the child is ordered detained. [;]

**(4) *The county attorney may not file a petition if the complaint is a misdemeanor and the child who is the subject of the diversion agreement has no prior adjudications and no prior diversions.***

~~{(e) In cases where the court-designated worker has recommended and the Commonwealth's attorney or county attorney, as appropriate, has consented in writing that a public offense petition not be filed and the complainant or victim, if any, or law enforcement agency having investigative jurisdiction of the offense has not called for a special review, said worker and the child may enter into a diversionary agreement. Such agreement may include the following: an informal plan of services provided by the court or its staff;~~

- ~~referral of the child to a public or private organization, agency, or person to assist the child and the child's family to resolve the problems presented in the complaint; referral to a community service program in accordance with the provisions of KRS 635.080(2); restitution, limited to the amount of actual property or pecuniary loss incurred by the victim, provided that the youth has the means or could acquire the means to make restitution; and other such programs or efforts which might reasonably benefit the community and the child. In assessing periods of community service to be performed and restitution to be paid by the youth who has entered into a diversion agreement, the court designated worker shall, to the extent possible, involve members of the community. Such members of the community shall meet with the youth and advise the court designated worker as to the terms of the diversionary agreement and shall supervise the youth in carrying out its terms. The diversionary agreement shall not cover a period in excess of six (6) months;~~
- ~~(f) If the terms of the agreement are successfully completed, the court designated worker shall dispose of the complaint, the charges shall be considered dismissed and further prosecution is prohibited. In the event the child fails to comply with the terms of the agreement, the court designated worker shall provide ten (10) days' written notice to the child and the child's parent or other person exercising custodial control or supervision and counsel of his intent to file a public offense petition based upon the original complaint, whereupon the court designated worker shall meet and confer with the child and the child's parent or other person exercising custodial control and supervision and counsel to consider from the child's viewpoint why a petition should not be filed; and~~
- ~~(g) In the event that a complaint is not disposed of as a result of an agreement or in the event that the child fails to comply with the terms of an agreement and a~~

~~petition is filed, the court shall proceed with the petition in accordance with the provisions of KRS Chapter 610 as if the agreement had never been formulated. In the event that a petition is filed based upon the court-designated worker's determination that the child has failed to comply with the terms of an agreement, the child may upon arraignment of said petition move for dismissal of the petition on the basis that the agreement was substantially complied with.]~~

~~(5)~~~~(2)~~ If~~[In the event]~~ a public offense petition is filed, it shall be verified by information and belief and contain the information listed in KRS 610.020.

~~[(3) The court designated worker shall refer all felony case charges involving the use of a firearm to the Commonwealth's attorney and all other felony case charges to the county attorney for prosecution in the appropriate court. The court designated worker may recommend to the county attorney the diversion of felony charges if those charges do not involve the use of a firearm. The county attorney, if he agrees, may transfer the matter to the court designated worker for appropriate action and supervision.~~

~~(4) Except as provided in KRS 605.030 and 605.040, the court designated worker shall refer all misdemeanor cases, violation cases, and motor vehicle traffic offense cases to the county attorney for prosecution in the appropriate court.~~

~~(5) Except as provided by KRS 605.030 and 605.040, the court designated worker shall refer all status offense cases to the county attorney for prosecution in the appropriate court.]~~

➔Section 46. KRS 635.055 is amended to read as follows:

No child who is found to be in contempt of court shall be committed as a public offender as a result of such finding, nor detained because of such finding in a facility other than a secure juvenile detention facility,~~[juvenile holding facility,]~~ youth alternative center, an alternative to detention program approved by the Department of Juvenile



Justice, or a nonsecure detention alternative. *An order of detention for a child found in contempt shall not exceed thirty (30) days.*

→Section 47. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may *impose any combination of the following, except that the court shall, if a validated risk and needs assessment tool is available, consider the validated risk and needs assessment submitted to the court and parties by the Department of Juvenile Justice or other agency before imposing any disposition:*

- (1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency;~~{or}~~
- (2) (a) Place the child:
  1. Under parental supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine, or
  2. ~~{place the child }~~On probation under conditions that the court shall determine.
- (b) 1. At the time the child is placed on probation, the court shall explain to the child the sanctions which may be imposed if the court's conditions are violated, and shall include notice of those sanctions as part of its written order of probation. A child placed on probation shall be subject to the visitation and supervision of a probation officer or an employee of

the Department of Juvenile Justice.

**2. The conditions of probation shall include authorization for the use of graduated sanctions prior to a court review for the imposition of a term of detention. If the court has previously imposed graduated sanctions for a violation of conditions of supervision by a child monitored by the court, or makes a finding that the graduated sanctions have previously been imposed for a child on probation, then the court may impose a sanction of up to thirty (30) days' detention for a violation of the conditions of supervision or probation. A court may not impose detention prior to use of graduated sanctions unless there is clear and convincing evidence that there are no graduated sanctions available that are appropriate for the child and the child is an immediate threat to himself or others. Except where commitment has been probated pursuant to subsection (5) of this section, a child may not be committed or recommitted to the Department of Juvenile Justice for a violation of a condition of probation.**

**(c) A** ~~Except as provided in KRS 635.083, a~~ child placed on probation or ~~parental~~supervision **with court monitoring** shall remain subject to the jurisdiction of the court **as follows** ~~until the child becomes eighteen (18) years of age, unless the child is discharged prior thereto by the court~~, except that if a person is placed on probation after the person reaches the age of seventeen (17) years and six (6) months, the probation shall be for a period not to exceed one (1) year:~~;~~ ~~or~~

**1. If the child was adjudicated for an offense that would be a violation if committed by an adult, the period of probation or supervision shall not exceed thirty (30) days, except that the court may order up to three (3) months of supervision if the court-ordered treatment includes a**

- program that requires longer than thirty (30) days to complete;
2. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the period of probation or supervision shall not exceed six (6) months, except that the court may order up to twelve (12) months of supervision if the court-ordered substance abuse or mental health treatment includes a program that requires longer than six (6) months to complete;
  3. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the period of probation or supervision shall not exceed twelve (12) months; or
  4. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or for an offense involving a deadly weapon, or for an offense in which the child has not been declared a sexual offender pursuant to KRS 635.510, the child may be placed on probation up to age eighteen (18);
- (3) (a) If the child was adjudicated for an offense other than an offense that would be a violation if committed by an adult, order the child confined in an approved secure detention facility or detention program, as authorized by KRS Chapter 15A, as follows:
1. If the child is fourteen (14) years of age but less than sixteen (16) years of age, the child may be confined for a period of time not to exceed forty-five (45) days; or

2. If the child is sixteen (16) years of age or older, the child may be confined for a period of time not to exceed ninety (90) days.

(b) The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to this subsection in accordance with the statewide detention plan and administrative regulations implementing the plan;

(4) (a) Order the child to be committed or recommitted~~Commit or recommit the child~~ to the custody of the Department of Juvenile Justice,~~or~~ grant guardianship to a child-caring facility or~~,~~ a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person if:

1. The child was adjudicated for an offense that would be a misdemeanor or Class D felony if committed by an adult and the child has at least three (3) prior adjudications, excluding prior adjudications of offenses designated as a violation, or at least four (4) prior adjudications of violations, which do not arise from the same course of conduct; or

2. The child was adjudicated for an offense involving a deadly weapon, an offense in which the child has been declared a juvenile sexual offender under KRS 635.510, or an offense that would be a felony offense if committed by an adult, other than a Class D felony.

(b) The commitment shall be for the following term, subject to KRS 635.070 and the power of the court to terminate the order and discharge the child prior thereto:

1. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS

- 635.510 or an offense involving a deadly weapon, the child may be committed for a period not to exceed twelve (12) months, including all time spent in the treatment plan established pursuant to Section 5 of this Act;
2. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the child may be committed for a period not to exceed eighteen (18) months, including all time spent in the treatment plan established pursuant to Section 5 of this Act;
  3. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or an offense involving a deadly weapon, the child may be committed up to age eighteen (18);
  4. If the child was adjudicated for an offense that results in the child being declared a juvenile sexual offender, the commitment shall be as provided in KRS 635.515;
  5. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; and
  6. If a child is committed after the child reaches the age of seventeen (17) years and six (6) months, and except as provided in subparagraph 4. of this paragraph, the commitment shall be for a period not to exceed one (1) year.

(c) The Department of Juvenile Justice shall:

1. Accept physical custody of a child who~~[If the child]~~ is detained in an approved secure juvenile detention facility~~[or juvenile holding facility]~~ in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice.~~[,]~~ The Department of Juvenile Justice shall~~[accept physical custody of the child,]~~ remove the child from the approved secure juvenile detention facility ~~[or juvenile holding facility,]~~ and secure appropriate placement as soon as possible but not to exceed thirty-five (35) days of the time of commitment or recommitment; and~~[.]~~
2. ~~[The Department of Juvenile Justice shall ]~~Pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed.

(d) All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public~~[. The commitment or placement shall be until the age of eighteen (18), subject to KRS 635.070 and to the power of the court to terminate the order and discharge the child prior thereto, except that if the commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, the commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; or~~

~~(4) If the child is fourteen (14) years of age but less than sixteen (16) years of age, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to~~

exceed forty five (45) days]; or

- (5) (a) The court may probate or suspend a commitment ordered pursuant to subsection (4) of this section,~~[If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed ninety (90) days; or~~

~~(6) Any combination of the dispositions listed above] except that[,] if a court probates or suspends a commitment in conjunction with any other dispositional alternative, that fact shall be explained to the juvenile and contained in a written order.~~

(b) Any probation or suspension imposed shall not exceed the time limitations established under subsection (2) of this section.

(c) If the child successfully completes the conditions of probation, the court shall terminate the case.

(d) 1. The court may, for violations of the conditions of probation, revoke the probation or suspension ordered under this section and order the child committed.

2. The period of the commitment shall not exceed the terms established under subsection (4) of this section.

3. Any time a child has spent in out-of-home placement as a result of a violation of a condition of probation or suspension under this section shall be credited toward the period of commitment.

4. If a commitment is probated or suspended after a child reaches the age of seventeen (17) years and six (6) months, the period of the suspension, and commitment if revoked, shall be for a period not to exceed one (1) year, but not to exceed age nineteen (19).

~~[The Department of Juvenile Justice shall pay for the confinement of children confined~~

~~pursuant to subsection (4) or (5) of this section in accordance with the statewide detention plan and administrative regulations implementing the plan.]~~

➔Section 48. KRS 635.080 is amended to read as follows:

- (1) If a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment, the court of the county where the new offense is committed shall have jurisdiction of the new offense for purposes of adjudication but may transfer the case for disposition to the court having jurisdiction of the prior offense.
- (2) If a child has been adjudicated a ~~status or~~ public offender, the court in its discretion may order participation in a community services work program. If the child is committed to the Department of Juvenile Justice on a previous offense, the child shall not be released from commitment if ordered to a work program until the completion of his commitment. **If a child has entered into a diversion agreement pursuant to Section 36 of this Act, the diversion agreement may require participation in a community services work program.** The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling and supervision from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred twenty (120) hours. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution. Participation in community-services-related projects shall not be deemed employment for any purpose, and the child shall not be deemed an employee or agent of the entity for which he performs the community service



work.

➔Section 49. KRS 635.085 is amended to read as follows:

- (1) In lieu of commitment to the Department of Juvenile Justice, if a child is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:
  - (a) For a felony, not to exceed five hundred dollars (\$500);
  - (b) For a misdemeanor, not to exceed two hundred fifty dollars (\$250); and
  - (c) For a violation, not to exceed one hundred dollars (\$100).
- (2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.
- (3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention facility~~[, juvenile holding facility,]~~ or approved detention program authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.

➔Section 50. KRS 635.100 is amended to read as follows:

- (1) **The Department of Juvenile Justice shall develop and implement a graduated sanctions protocol of swift, certain, proportionate, and graduated sanctions that**

*the department shall apply in response to a committed child's violations of the terms or conditions of supervised placement.*

(2) (a) Any child committed to or in the custody of the Department of Juvenile Justice who escapes or is absent without leave from his or her placement shall be taken into custody and returned to the custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(b) *A child taken into custody as provided in this subsection shall be returned to the active custody of the Department of Juvenile Justice within three (3) days, exclusive of weekends and holidays, and no administrative hearing shall be required.*

~~(3)~~~~(2)~~ Any child committed to the Department of Juvenile Justice who is placed on supervised placement by the Department of Juvenile Justice and who violates the terms or conditions of supervised placement may be returned to active custody of the Department of Juvenile Justice and shall be taken into custody by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

~~(4)~~~~(3)~~ A child taken into custody may be held in a Department of Juvenile Justice facility, program, or contract facility, prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the Department of Juvenile Justice within five (5) days, exclusive of weekends and holidays, of the holding, unless the child or his representative request or agree to a longer period of time, to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (5) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be

represented by counsel at the preliminary hearing.

~~[(4) A child taken into custody as provided in subsection (1) of this section shall be returned to the active custody of the Department of Juvenile Justice within three (3) days, exclusive of weekends and holidays, and no administrative hearing shall be required].~~

(5) If the child is returned to the active custody of the Department of Juvenile Justice as provided in subsection ~~(4)~~~~[(3)]~~ of this section an administrative hearing shall be held as follows:

(a) The hearing shall be held within ten (10) days, exclusive of weekends and holidays, of the preliminary hearing unless the child and his representative request or agree to a longer period of time;~~[-]~~

(b) The hearing shall be presided over~~held~~ by one (1) hearing officer designated by the Department of Juvenile Justice to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel;~~[-]~~ and~~[-]~~

(c)~~[(6)]~~ The department shall have the power to administer oaths and to issue subpoenas compelling the attendance of witnesses as it may deem necessary to the case of any child before it. Disobedience of a subpoena may be punished as contempt of court, after a hearing before the committing juvenile court.

(6)~~[(7)]~~ Administrative hearings conducted under this section and administrative regulations promulgated under this section shall be exempt from the requirements of KRS Chapter 13B.

(7)~~[(8)]~~ The Department of Juvenile Justice shall promulgate administrative regulations to govern at least the following aspects of this section:

- (a) Commissioner's warrant;
- (b) Procedural aspects of the hearing;

- (c) Burden of proof;
- (d) Standard of proof; and
- (e) Administrative appeal process.

➔Section 51. KRS 640.020 is amended to read as follows:

- (1) Any person proceeded against as a youthful offender under the provisions of this chapter who is under eighteen (18) years of age shall be detained in a secure juvenile detention facility~~[or a juvenile holding facility]~~ if he is unable to meet the conditions of release or bail established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.
- (2) Any person proceeded against as a youthful offender under the provisions of this chapter who is eighteen (18) years of age or older shall be lodged as an adult if he is unable to meet the conditions of release or bail established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.

➔Section 52. KRS 645.120 is amended to read as follows:

- (1) If, as a result of mental illness, a child appears in need of immediate hospitalization for observation, diagnosis, or treatment, a peace officer or any interested person may either take the child to a hospital, mental health facility, or another less restrictive alternative or file a petition for emergency hospitalization. Upon filing a petition, a peace officer may place a child up to twenty-four (24) hours, excluding weekends and holidays, in a hospital or mental health facility or another less restrictive alternative. The peace officer shall notify the court designated worker of the child's placement. Within twelve (12) hours, the peace officer shall, if no other party can be found, file a petition, unless the child has been taken to a hospital. No child held under this section shall be held in a secure juvenile detention facility~~[or juvenile holding facility]~~ unless a status offense action or public offense action is also pending.
- (2) On the basis of a prompt examination and any other available information

concerning a child who is present at or presented at a hospital, an authorized staff physician shall determine within twenty-four (24) hours if the child needs immediate hospitalization after which the child shall be released within seventy-two (72) hours unless the child is held pursuant to other provisions of this chapter.

- (a) The hospital may accept physical custody of the child and may request the person who brought the child to remain on the premises until the authorized staff physician makes a determination;
  - (b) If the authorized staff physician determines that the child, as a result of mental illness, appears to need immediate hospitalization, the physician shall admit the child for observation, diagnosis, and treatment, and shall, if he deems it appropriate, file a certification petition. If the proponent of emergency hospitalization is not the child's legal custodian, the hospital shall immediately notify the child's parent or other person exercising custodial control or supervision including, if applicable, the state; and
  - (c) If the authorized staff physician determines the child does not need immediate hospitalization, the physician shall release the child to a parent, person exercising custodial control or supervision, or an agency having custody of the child and make whatever recommendations or referrals the physician deems appropriate.
- (3) The petition for emergency hospitalization shall state the petitioner's belief, including its factual basis, that the child, as a result of mental illness, needs immediate hospitalization for observation, diagnosis, and treatment. Within twenty-four (24) hours of the filing, exclusive of weekends and holidays, the court shall on an ex parte basis, which may be by telephone:
- (a) Deny the petition; or
  - (b) Issue an order authorizing a peace officer to transport the child to a designated hospital or mental health facility for evaluation for emergency hospitalization,

at which time two (2) qualified mental health professionals, at least one (1) of whom is an authorized staff physician, shall follow the procedures specified in subsection (2) of this section. If the child is committed to the cabinet or will be treated by the cabinet, the court shall notify the cabinet of its order at once and shall also advise the cabinet of the sex and condition of the child who is to be transported. The peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the child to a hospital or mental health facility. The cabinet shall pay the transportation costs of the child and the official transporting the child, both to and from the designated hospital or mental health facility, in accordance with an administrative regulation promulgated under KRS Chapter 13A. If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization, the child shall be released immediately and transported back to the child's home county by an appropriate means of transportation.

- (4) An emergency hospitalization of a child may not exceed seven (7) days, exclusive of weekends and holidays, unless a certification petition is filed before the seven (7) days expire.

➔Section 53. KRS 645.280 is amended to read as follows:

- (1) No child held under the provisions of this chapter shall be held in a secure juvenile detention facility~~[or juvenile holding facility]~~ unless a status offense action or public offense action is also pending. No peace officer or any other person shall bring a status offense action or a public offense action against a child who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the child to a hospital, mental health facility, or other less restrictive alternative.

- (2) If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization and the peace officer has reason to believe that the child has committed a status offense or public offense, the peace officer may proceed in accordance with KRS 610.190 to 610.290.

➔Section 54. KRS 17.125 is amended to read as follows:

- (1) The following agencies **are parts of Kentucky's juvenile justice system and** shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:
- (a) All sheriff's offices, police departments, and any other law enforcement agency;
  - (b) All Commonwealth's attorneys and county attorneys;
  - (c) The Attorney General;
  - (d) All jails and juvenile detention facilities, public and private;
  - (e) All courts and clerks of courts;
  - (f) The Administrative Office of the Courts;
  - (g) All departments within the Justice and Public Safety Cabinet; ~~and~~
  - (h) All departments within the Cabinet for Health and Family Services; **and**
  - (i) **All family accountability, intervention, and response teams.**
- (2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.
- (3) **Once a complaint is filed with a court-designated worker alleging that a child has committed a status offense or public offense,** all public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to **that child**~~[status offenders, public offenders, youthful offenders, juveniles~~

~~remanded to detention, and any juvenile convicted by a court], to any of the agencies listed in subsection (1) of this section. **Pursuant to the authority granted to the Commonwealth under the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, when this section refers to the release of educational records, the purpose of the release shall be limited to providing the juvenile justice system with the ability to effectively serve, prior to adjudication, the needs of the student whose records are sought. The authorities to which the data are released shall certify that any educational records obtained pursuant to this section shall only be released to persons authorized by statute and shall not be released to any other person without the written consent of the parent of the child. The request, certification, and a record of the release shall be maintained in the student's file**~~[The records or information provided pursuant to this subsection shall be subject

~~to:~~

- ~~(a) Access or other restrictions imposed by federal or state law;~~
  - ~~(b) All confidentiality restrictions imposed by federal or state law; and~~
  - ~~(c) All disclosure and redisclosure restrictions imposed by federal or state law].~~
- (4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.
- (5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.
- (6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

➔Section 55. KRS 600.070 is amended to read as follows:



Pursuant to the authority granted to the Commonwealth under the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, when a statute within KRS Chapters 600 to 645 refers to the release of educational records, the purpose of the release shall be limited to providing the juvenile justice system with the ability to effectively serve, prior to adjudication, the needs of the student whose records are sought. **The authorities to which the data are released shall certify that** any educational records obtained pursuant to a statute within KRS Chapters 600 to 645 shall only be released to persons authorized by statute and shall not be released to any other person without the written consent of the parent of the child.

➔Section 56. The following KRS section is repealed:

67.0831 Fiscal courts to provide facilities to hold children.

➔Section 57. Sections 9, 15, 19, 25, 27, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 46, 47, 48, 51, and 52 of this Act shall take effect July 1, 2015.