

CHAPTER 203**(HB 146)**

AN ACT relating to juvenile justice and declaring an emergency.

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

Section 1. KRS 610.060 is amended to read as follows:

- (1) If the Circuit or District Court determines that a formal proceeding is required in the interest of the child or to determine the truth or falsity of the allegations against the child, a petition shall be required pursuant to KRS 610.020, and the court shall, when the child is brought before the court:
 - (a) Explain to the child and his parents, guardian, or person exercising custodial control their respective rights to counsel and, if the child and his parents, guardian, or person exercising custodial control are unable to obtain counsel, shall appoint counsel for the child, *as provided in subsection (2) of this section*, and, unless specified to the contrary by other provisions of KRS Chapters 600 to 645, may appoint counsel for the parents, guardian, or person exercising custodial control;
 - (b) Explain the right against self-incrimination by saying that the child, parents, relative, guardian, or custodian may remain silent concerning the charges against the child, and that anything said may be used against the child;
 - (c) Unless limited by statute, explain the right to confront anyone who has accused the child and to cross-examine that person on the allegations made against the child;
 - (d) Advise the child and his parents, guardian, or person exercising custodial control of the right to appeal from a determination of the court; and
 - (e) Advise the child that these rights belong to him and may not be waived by his parents, guardian, or person exercising custodial control.
- (2) (a) *No court shall accept a plea or admission or conduct an adjudication hearing involving a child accused of committing any felony offense, any offense under KRS Chapter 510, or any offense for which the court intends to impose detention or commitment as a disposition unless that child is represented by counsel.*
- (b) *For a child accused of committing any other offense, before a court permits the child to proceed beyond notification of the right to counsel required by paragraph (a) of subsection (1) of this subsection without representation, the court shall:*
 1. *Conduct a hearing about the child's waiver of counsel; and*
 2. *Make specific findings of fact that the child knowingly, intelligently and voluntarily waived his right to counsel.*
- (3) Unless otherwise exempted in KRS Chapters 600 to 645, a child and his parents or person exercising custodial control shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing.
- ~~(4)~~~~(3)~~ Subject to the provisions of KRS 31.125, the court may order a parent to pay for counsel for the child if the court determines that the parent has the ability to pay for such counsel. The fact that a child is committed to a state agency shall not be cause for the court to order that agency to pay for counsel.

~~(5)(4)~~ Subject to Rule 43.09 of the Rules of Civil Procedure, the court shall permit the victim, the victim's parents or legal guardian, or, if emancipated, the victim's spouse, or the legal representative of any of these, to attend all proceedings under this section.

~~(6)(5)~~ An attempt shall be made to notify the persons specified in subsection ~~(5)(4)~~ of this section of the time, date, and place of all proceedings under this section. Each District Court shall, by rule, establish the means of notification and the person or agency responsible for making the notifications. The failure of a victim or other person specified in subsection ~~(5)(4)~~ of this section to receive notice shall not delay the proceedings in the case.

Section 2. Whereas delayed implementation of the provisions of this Act may result in unneeded financial exposure to the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved April 5, 2002