

**CHAPTER 257****(HB 145)**

AN ACT relating to juvenile justice.

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

Section 1. 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~~[who may be]~~ ordered by the court to remain in the juvenile detention facility~~[for an indeterminate period]~~.
  - (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 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 2. 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~~[after consultation with other appropriate state agencies];~~
- (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)***~~[seventy-two (72)]~~ 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;~~[and]~~
- (5) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the nonsecure detention of juveniles; ***and***
- (6) ***The term "facility" or "facilities" as used in KRS 15A.210 to 15A.240 shall mean the facilities defined in this section.***

Section 3. KRS 15A.210 is amended to read as follows:

- (1) The Department of Juvenile Justice shall ***promulgate***~~[after consultation with the Detention Facility Standards Committee, issue]~~ and enforce administrative regulations to govern at least the following aspects of the operation of~~[secure juvenile detention facilities and juvenile holding]~~ facilities:
- (a)~~{(1)}~~ Administration;
  - (b)~~{(2)}~~ Personnel;
  - (c)~~{(3)}~~ Training and staff development;
  - (d)~~{(4)}~~ Recordkeeping;
  - (e)~~{(5)}~~ Physical plant;
  - (f)~~{(6)}~~ Security and control;
  - (g)~~{(7)}~~ Safety and emergency procedures;
  - (h)~~{(8)}~~ Sanitation and hygiene;
  - (i)~~{(9)}~~ Medical and health services;
  - (j)~~{(10)}~~ Food services;
  - (k)~~{(11)}~~ Intake and classification;
  - (l)~~{(12)}~~ Programs and services;
  - (m)~~{(13)}~~ Residents' rights;
  - (n)~~{(14)}~~ Rules and discipline;
  - (o)~~{(15)}~~ Admission procedures;
  - (p)~~{(16)}~~ Communication, including mail, visitation, and telephone;
  - (q)~~{(17)}~~ Release preparation and transfer programs;~~[and]~~
  - (r)~~{(18)}~~ Volunteer involvement;
  - (s) ***Transfers;***
  - (t) ***Reimbursement rates and conditions; and***
  - (u) ***Detention facility rate increases.***
- (2) ***Administrative regulations promulgated under this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department of Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.***

Section 4. KRS 15A.220 is amended to read as follows:

- (1) ~~[On or before July 1, 1998, ]~~Each person or organization operating a~~[secure juvenile detention]~~ facility shall register with the ***Department of Juvenile Justice***~~[Cabinet]~~ and shall comply with the regulations issued pursuant to KRS 15A.210.
- (2) ~~[After July 1, 1998, ]~~Each organization operating or seeking to operate ***or expand*** a~~[secure juvenile detention facility or juvenile holding]~~ facility shall:

- (a) Apply to the Department of Juvenile Justice in a period of time set by *administrative* regulation prior to the scheduled opening of the ~~secure juvenile detention facility or juvenile holding~~ facility;
  - (b) Permit inspection of the ~~secure juvenile detention facility or juvenile holding~~ facility by the Department of Juvenile Justice not less than thirty (30) days prior to the scheduled opening of the facility; and
  - (c) Supply to the Department of Juvenile Justice not less than thirty (30) days prior to the scheduled opening of the ~~secure juvenile detention~~ facility all data, plans, and other materials required by the *Department of Juvenile Justice* ~~Cabinet~~.
- (3) No ~~secure juvenile detention facility or juvenile holding~~ facility shall operate ~~after July 1, 1998,~~ except with the approval of the Department of Juvenile Justice.
- (4) *The Department of Juvenile Justice shall have the authority, upon thirty (30) days written notice to the county judge/executive and jailer of any county that operates a juvenile detention facility and is located within an area served by a state-operated juvenile detention facility, to decertify any juvenile detention facility and that facility shall, at the expiration of the thirty (30) day period, cease detaining juveniles.*

Section 5. KRS 15A.230 is amended to read as follows:

- (1) ~~After July 1, 1998,~~ The Department of Juvenile Justice shall inspect, at least annually, each registered ~~secure juvenile detention~~ facility to assure its compliance with administrative regulations.
- (2) ~~After July 1, 1998,~~ The Department of Juvenile Justice may require reports and other data at least annually from each ~~secure juvenile detention facility and juvenile holding~~ facility.

Section 6. KRS 15A.300 is amended to read as follows:

- (1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and juvenile status offenses.
- (2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department for Community Based Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.
- (3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:
  - (a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Community Based Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;

- (b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;
  - (c) Sharing of information as authorized by law to carry out the interagency agreements;
  - (d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and
  - (e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.
- (4) Training of council members shall be the responsibility of the department.
- (5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.
- (6) *To assist in the development of a local juvenile delinquency prevention plan, juvenile delinquency prevention councils shall be entitled to request and receive statistical information and aggregate data not descriptive of any readily identifiable person from any public agency, as defined in KRS 61.870.*
- (a) *A request for statistical information and aggregate data from the juvenile delinquency prevention council shall be in writing and signed by the chairperson of the council, and shall include a statement of why the information is being requested, why it is needed, and how it will be used by the council.*
  - (b) *Any public agency receiving a written request from the chairperson of a juvenile delinquency prevention council for aggregate data or statistical information shall provide the requested information or respond to the council stating reasons why the requested information cannot be provided, within thirty (30) days of receiving the request.*
- (7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:
- (a) The formation of councils;
  - (b) The operation of councils;
  - (c) The duties of councils; and
  - (d) The administration and operation of the grant program.

Section 7. 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.

~~[Funds appropriated for the purposes of this section shall only be used for facilities defined in KRS 15A.200.]~~

- (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*~~[children]~~ who are before the court 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 ~~may~~**shall**, except as provided in KRS 635.060, charge counties and urban-county governments a per diem not to exceed ninety-four dollars (\$94) for lodging juveniles in state-owned or contracted~~[preadjudication]~~ facilities.
- (4) 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.
- ~~(5) The Department of Juvenile Justice shall issue and enforce administrative regulations to govern the following:~~
- ~~(a) Administration;~~
  - ~~(b) Intake and classification;~~
  - ~~(c) Programs and services;~~
  - ~~(d) Recordkeeping;~~
  - ~~(e) Rules and discipline;~~
  - ~~(f) Transfers;~~
  - ~~(g) Reimbursement rates and conditions; and~~
  - ~~(h) Detention facility rate increases.~~
- ~~(6) No juvenile detention facility, as defined in Section 2 of this Act,~~~~[or juvenile holding facility]~~ 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.
- ~~[(7) Administrative regulations promulgated under subsection (5) of this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department for Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.]~~

Section 8. KRS 605.080 is amended to read as follows:

- (1) Any child ordered to be transported, by a committing or sentencing court, shall be transported by the sheriff or the jailer of that county. Any other law enforcement agency may enter into agreements with the court, sheriff, or jailer to transport juveniles.

- (2) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be allowed an amount prescribed by regulation adopted by the Finance and Administration Cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging, and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the District Court and certified by the circuit clerk to the Department of Juvenile Justice or the cabinet, as appropriate, for payment out of funds appropriated to the Department of Juvenile Justice or the cabinet for this purpose. The child's presence shall be necessary at a postdispositional proceeding only as required by court order for good cause. Transportation shall be provided as in subsection (1) of this section and expenses for transportation of a child to a proceeding from a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be paid out of the State Treasury.
- (3) No child shall be transported to any residential treatment facility or other facility, pursuant to order of any court ~~or direction of the cabinet~~, unless accompanied by an attendant of the same gender, *unless that child* ~~or~~, when authorized in writing by the court, the Department of Juvenile Justice, or the cabinet, *is transported* by a parent, grandparent, or adult brother or sister.
- (4) The agent of any residential treatment facility or other facility which receives a child transported to the facility shall report any violation of subsection (3)~~(2)~~ of this section to the Commonwealth's attorney of the judicial circuit in which the facility is located.
- (5) The Department of Juvenile Justice or the cabinet may *transport or* pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 9. KRS 605.095 is amended to read as follows:

- (1) The Department of Juvenile Justice shall operate or contract for the operation of any postadjudication juvenile detention or treatment facility in which a juvenile is confined for a public offense or as a youthful offender.
- (2) Not less than one (1) facility specified in subsection (1) of this section shall be a secure facility with a security level comparable to a medium-security adult facility.
- (3) The Department of Juvenile Justice shall operate or contract for the operation of any postadjudication juvenile treatment, rehabilitation, probation, or parole programs, diversion or alternatives to *secure* detention programs, or other programs for juvenile offenders to which a juvenile *committed as a public offender or sentenced as a youthful offender* has been assigned.
- (4) A juvenile detained in a department-operated postadjudication detention or treatment facility may be transferred to a Department of Corrections facility at any time as provided by KRS 640.070 or other specific statute.

Section 10. KRS 605.110 is amended to read as follows:

- (1) Unless provided otherwise, when any child committed to *or in the custody of* the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.
- (2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.
- (3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.
  - (a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Families and Children and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Families and Children, Department for Community Based Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.
  - (b) Teachers and other staff shall be hired on contract through a local school district or if a local school district is not willing to participate, teachers may be hired by the Kentucky Educational Collaborative for State Agency Children or a contract may be entered into with a private provider of educational services. All certified educational staff hired by the Kentucky Educational Collaborative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.



- (c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:
1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
  2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;
  3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
  4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
  5. The funding for school services for state agency children authorized by KRS 158.135; and
  6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.
- (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:
1. Provide for the development and implementation of interagency agreements that:
    - a. Define the financial responsibility of each state and local agency for providing services to state agency children;
    - b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
  2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Families and Children.
- (e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or

educational facility, present the educational passport to the receiving school or educational facility.

- (f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 11. 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~~[605.090,]~~ 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) Perform such other services as may be deemed necessary for the protection of children.

Section 12. 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:
  - (a) 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*~~[he]~~ 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~~[secure juvenile detention facility or a juvenile holding]~~ facility *as defined in Section 1 of this Act*~~[or, if neither is available, in an intermittent holding facility]~~. 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~~[secure juvenile detention facility or a juvenile holding]~~ 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;
  - (b) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
  - (c) Is an habitual truant from school;

- (d) Is an habitual runaway from his *or her* parent or other person exercising custodial control or supervision of the child;
  - (e) Is dependent, neglected, or abused; or
  - (f) Is mentally ill.
- (2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.
  - (3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.
  - (4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.
  - (5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.
  - (6) 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.
  - (7) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.
  - (8) 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*~~his~~ 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.
  - (9) The court of each county wherein a public offense, as defined in paragraph (a) of 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*~~his~~ case, or in its discretion may make an order transferring the case to the court of the county of *the child's*~~his~~ residence or the county wherein the offense was committed, as the case may be.
  - (10) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.
  - (11) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court 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 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 the cabinet.

- (12) 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.
- (13) 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, or reaches the age of eighteen (18) years.

Section 13. 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, ~~or~~ 635.090, *or 635.515* 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). At least fourteen (14) days prior to the 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 14. KRS 610.280 is amended to read as follows:

- (1) At the detention hearing held pursuant to KRS 610.265, the court shall make separate findings as follows:
  - (a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The

child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof, and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case;

- (b) In determining whether a child should be further detained, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child.

~~(2)(3)~~ If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention.

Section 15. KRS 635.020 is amended to read as follows:

- (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.
- (2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (4) Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm, whether functional or not, was used in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a ~~secure detention~~ facility **or program** for juveniles or for youthful offenders, unless the provisions of KRS 635.025 apply or unless he is released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be **returned to the sentencing Circuit Court for proceedings consistent with KRS 640.030(2)**~~transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence~~.
- (5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court

shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

- (6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

Section 16. 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:

- (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) Place the child on probation, home incarceration, or under supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine. A child placed on probation, home incarceration, or supervision shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice *and, unless the court's order contains a specific sanction to be imposed in the event that a violation of probation occurs, a violation of probation may result in commitment.* Except as provided in KRS 635.083, a child placed on probation, home incarceration, or supervision shall remain subject to the jurisdiction of the court 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, home incarceration, or supervision after the person reaches the age of seventeen (17) years and six (6) months, the probation, home incarceration, or supervision shall be for a period not to exceed one (1) year; or
- (3) Commit or recommit the child to the custody or guardianship of the Department of Juvenile Justice, a child-caring facility, a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person. If the child is detained in an approved secure juvenile detention facility ~~or~~ juvenile holding facility ~~or intermittent 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. 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. 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) 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.

The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to subsections (4) or (5) of this section in accordance with the statewide detention plan and administrative regulations implementing the plan.

Section 17. 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 ~~{or }~~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.
- (4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the fund specified in KRS 431.100.

SECTION 18. KRS 15A.314 IS REPEALED, AMENDED, AND REENACTED AS A NEW SECTION OF KRS CHAPTER 194A TO READ AS FOLLOWS:

*The Cabinet for Health Services shall update its database within thirty (30) days of receipt of information. The update shall include information from the:*

- (1) *Offender records;*
- (2) *Institutional records; and*
- (3) *Administrative records.*

Section 19. KRS 610.345 is amended to read as follows:

- (1) When a child is adjudicated guilty of an offense which classifies him as a youthful offender, the court in which the matter was tried shall notify the principal of any public or private elementary or secondary school which the child attends of the adjudication and the petition and disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.
- (2) When a child is adjudicated guilty of an offense which would classify him as a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A, 508, 510, or 527 if committed by an adult, but which would not classify him as a youthful offender, the court in which the matter was tried shall notify within five (5) days of the order the principal of any public or private elementary or secondary school which the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.
- (3) When a petition is filed against a child, or a child is adjudicated guilty of an offense that would be a felony or misdemeanor if committed by an adult, and the misdemeanor involves a controlled substance or the possession, carrying, or use of a deadly weapon, or physical injury to another person, the court in which the matter is considered shall notify the principal of any public or private elementary or secondary school that the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of the facts in the case, not to include the complainant's name.
- (4) Notice of adjudication to the school principal referenced in subsections (1) and (2) of this section shall be released by the principal to employees of the school having responsibility



for classroom instruction of the child and may be released to other school personnel as described in subsection (5) of this section, but the information shall otherwise be confidential and shall not be shared by school personnel with any other person or agency except as may otherwise be required by law. The notification in writing of the nature of the offense committed by the child and any probation requirements shall not become a part of the child's student record.

- (5) Records or information disclosed pursuant to this section shall be limited to records of that student's criminal petition and the disposition thereof covered by this section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall not be disclosed to any other person, including school personnel, except to public or private elementary and secondary school administrative, transportation, and counseling personnel, and to any teacher or school employee with whom the student may come in contact. This section shall not authorize the disclosure of any other juvenile record or information relating to the child.
- (6) ***The Department of Juvenile Justice shall provide a child's offense history information pursuant to this section to the superintendent of the local school district in which the child, who is committed to the department, is placed.***
- (7) Records or information received by the school pursuant to this section shall be kept in a locked file, when not in use, to be opened only on permission of the administrator.

Section 20. 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 strengthen and maintain the biological family unit; and to 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 all efforts shall be directed toward providing each child a safe and nurturing home;
  - (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 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 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 21. The following KRS sections are repealed:

15A.245 Detention Facility Standards Committee -- Membership.

15A.250 Local alternatives to detention fund.

15A.260 Use of fund.

**Approved April 8, 2002**