

CHAPTER 106**(SB 162)**

AN ACT relating to public safety, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:
 - (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 1. Training Operations Division; and
 2. Administrative Division;
 - (c) Department of Juvenile Justice, which shall have the following offices *and divisions*:
 1. Office of Program Operations, which shall have the following divisions:
 - a. Division of Western Region;
 - b. Division of Eastern Region; and
 - c. Division of Placement Services;
 2. Office of Support Services, which shall have the following divisions:
 - a. Division of Administrative Services;
 - b. Division of Program Services; and
 - c. *Division of Professional Development*~~{Division of Medical Services}~~; and
 3. Office of Community and Mental Health Services, which shall have the following *division*~~{divisions}~~:
 - a.~~{~~—~~Division of Professional Development; and~~
 - ~~b.}~~ Division of Community and Mental Health Services;
 4. *Office of Detention, which shall require that all detention centers report to one (1) supervisor who reports directly to the commissioner, and which shall have the following division:*
 - a. *Division of Transportation; and*
 5. *Division of Compliance;*
- (d) Department of Kentucky State Police, which shall have the following offices and divisions:
 1. Office of Administrative Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
 - a. Division of Operational Support, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services; and
 - b. Division of Management Services, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services;
 2. Office of Operations, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;

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- a. Division of West Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;
 - b. Division of East Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;
 - c. Division of Special Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and
 - d. Division of Commercial Vehicle Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and
3. Office of Technical Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
- a. Division of Forensic Services, which shall be headed by a director who shall have a minimum of a bachelor's degree in a natural science and at least seven (7) years of experience in an accredited forensic laboratory, who shall be appointed by the commissioner of the Department of Kentucky State Police, and who shall report to the executive director of the Office of Technical Services; and
 - b. Division of Information Technology, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Technical Services; and
- (e) Department of Public Advocacy, which shall have the following divisions:
1. Protection and Advocacy Division;
 2. Division of Law Operations;
 3. Division of Trial Services;
 4. Division of Post-Trial Services; and
 5. Division of Conflict Services.
- (2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of the Justice and Public Safety Cabinet with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department of Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department of Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department of Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices and divisions:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Human Resource Management, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 1. Division of Human Resource Administration, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management; and

2. Division of Employee Management, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management;
- (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, that:
1. Shall provide legal representation and services for the cabinet; and
 2. May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department of Public Advocacy only when the investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department of Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this subparagraph. The secretary may, by administrative order, assign the investigative functions in this subparagraph to a branch within the office.

The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;

- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (e) Office of Communications, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to communications, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
1. Information and Technology Services Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Communications;
- (f) Office of Financial Management Services, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to fiscal functions, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
1. Division of Financial Management, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Financial Management Services;
- (g) Grants Management Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to state and federal grants management, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

- (h) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; and
- (i) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

➔Section 2. KRS 15A.061 is amended to read as follows:

- (1) ***The cabinet shall maintain a comprehensive, centralized data tracking system for the Department of Juvenile Justice.***
- (2) 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 3. KRS 15A.063 is amended 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 ~~shall~~~~is to~~ actively ~~engage in~~ review the implementation of ~~all the~~ juvenile justice reforms ***enacted by the General Assembly***~~in 2014 Ky. Acts ch. 132~~, 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 for 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;
 10. ***One (1) member of the Senate appointed by the President of the Senate, and one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate, who shall serve as ex officio, nonvoting members for the duration of the terms for which they were elected;***

11. ***One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives, and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives, who shall serve as ex officio, nonvoting members for the duration of the terms for which they were elected; and***

12.~~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 Committees shall serve as co-chairs.

(c) At-large members shall be appointed by August 1, 2022, 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) ***Review***~~Oversee~~ the implementation of the reforms ***enacted by the General Assembly***~~; contained in 2014 Ky. Acts ch. 132, including;~~

~~(b)1.~~ Review~~of the~~ performance measures~~to be adopted~~ and recommend modifications;

~~(c)2.~~ ***Review***~~Ensure~~ all policies ***to confirm implementation as***~~are implemented in accordance with the time frames~~ established ***by legislation enacted by the General Assembly and administrative regulations promulgated thereunder***;

~~(d)3.~~ ***Review***~~Ensure~~ the fiscal incentive program established pursuant to KRS 15A.062~~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;~~

~~(e)4.~~ Collect and review performance data and recommend any additional performance measures needed to identify outcomes in the juvenile justice system;

~~(f)5.~~ Review the information received from the Department of Education pursuant to KRS 156.095, and determine whether any action is necessary, including additional performance measures, funding, or legislation;

~~(g)6.~~ Continue review of juvenile justice areas determined appropriate by the council, including:

1. Status offense reform;
2. Necessary training for school resource officers as defined in KRS 158.441, 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~~

(h) Review and make recommendations regarding:

1. *The structure and staffing of the Department of Juvenile Justice;*
2. *Training of juvenile justice staff;*
3. *The adequacy of current programs and facilities operated by the Department of Juvenile Justice;*
4. *Best practices in juvenile justice programs and facilities; and*
5. *Other topics as determined by the council; and*

~~(i)(e)~~ Report by **December 1, 2023**~~[November 2014]~~, and by **December 1**~~[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 **Legislative Research Commission**~~[Justice and Public Safety Cabinet]~~ for administrative purposes.
- (5) The council shall terminate on July 1, 2030, unless the General Assembly extends the term of the council.

➔Section 4. 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 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.
- (7) *The Department of Juvenile Justice shall enter into sufficient contracts to ensure the availability of institutional treatment for children with severe emotional disturbance or mental illness as soon as practicable.*
- (8) *The Department of Juvenile Justice shall, for any facility operated pursuant to subsection (1) of this section, require that the facility:*
 - (a) *Provide children in crisis who are residing in a juvenile detention facility access to a mental health professional whose communications with the child are privileged under the Kentucky Rules of Evidence;*
 - (b) *Conduct monthly documented training related to emergency response;*
 - (c) *Ensure that appropriate staff working with detained youth have controlled access to, and are properly trained in the use of, appropriate defensive equipment comparable to that utilized by the Department of Corrections, including tasers, pepper spray, and shields;*
 - (d) *Establish a specially trained emergency response team within each juvenile detention center and youth development center which shall be trained in tactics related to detention facilities and engage in monthly drills as part of emergency response training;*
 - (e) *Enter into a memorandum of understanding with local law enforcement for emergency response and include these agencies in emergency response trainings;*
 - (f) *Be equipped with an alarm that directly communicates an emergency situation to the local dispatch center; and*
 - (g) *Promulgate administrative regulations in accordance with KRS Chapter 13A to implement this subsection.*

➔Section 5. KRS 610.340 is amended to read as follows:

- (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent, victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.
- (b) Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
- (c) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
- (d) Victim access under this subsection to juvenile court records shall include access to records of adjudications that occurred prior to July 15, 1998.
- (2) The provisions of this section shall not apply to public officers or employees engaged in the investigation of and in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.
- (3) The provisions of this section shall not apply to any peace officer, as defined in KRS 446.010, who is engaged in the investigation or prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.

- (4) The provisions of this section shall not apply to employees of the Department of Juvenile Justice or cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes.
- (5) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative, transportation, and counseling personnel, to any teacher or school employee with whom the student may come in contact, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.
- (6) *The provisions of this section shall not apply to employees of local law enforcement agencies, the Department of Kentucky State Police, or the Federal Bureau of Investigation engaged in conducting background checks for the sole purpose of identifying and providing potentially disqualifying juvenile public offense records to the National Instant Criminal Background Check System pursuant to Div. A, Title II, Sec. 12001(a) of the Bipartisan Safer Communities Act, Pub. L. No. 117-159. Notwithstanding KRS 635.040, an adjudication for a public offense is a conviction of a crime for purposes of 18 U.S.C. sec. 922(d)(1), (d)(3), or (d)(9). Any public offense record obtained pursuant to this subsection shall be used for official use only, not be disclosed publicly, and be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.*
- (7) No person, including school personnel, shall disclose any confidential record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.
- ~~(8)(7)~~ No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain confidential records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.
- ~~(9)(8)~~ No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.
- ~~(10)(9)~~ No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.
- ~~(11)(10)~~ As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.
- ~~(12)(11)~~ Nothing in this section shall be construed to prohibit a crime victim from speaking publicly after the adjudication about his or her case on matters within his or her knowledge or on matters disclosed to the victim during any aspect of a juvenile court proceeding.

➔Section 6. The Justice and Public Safety Cabinet shall:

- (1) Develop and implement, as soon as practicable, a plan that will transition back to the regional model of juvenile detention center facilities while safely segregating males and females and separating violent and nonviolent offenders. The plan shall provide for a return to the regional structure from the current emergency structure;
- (2) Within 30 days after the effective date of this Act, return to a uniform requirement for Department of Juvenile Justice correctional officers within juvenile detention facilities;
- (3) Within 90 days after the effective date of this Act, implement a Youth Worker-R program to retain retired youth workers to supplement the staff of the Department of Juvenile Justice;
- (4) Within 30 days after the effective date of this Act, notwithstanding KRS Chapter 18A, implement a limited duration program to allow staff of the Department of Juvenile Justice who have resigned to return at their previous employment classification with the approval of the department;
- (5) Reinstate and maintain a management training program for the Department of Juvenile Justice for all leadership positions, including the commissioner, and provide that any individual who has satisfactorily completed the training program shall be an eligible candidate for any leadership position within the department, including the position of commissioner; and

(6) Develop and implement a plan to identify and transfer any juvenile to another facility if the transfer is related to a security risk, is necessary to avoid interference with any criminal investigation, or is necessary due to lack of available beds or staff shortages.

➔Section 7. Within 90 days after the effective date of this Act, the Department for Medicaid Services shall develop and submit an amendment to the Section 1115 demonstration waiver submitted pursuant to 2021 Ky. Acts ch. 169, Part I, G., 3., b., (16) to provide Medicaid benefits to Medicaid-eligible children detained by the Department of Juvenile Justice. Upon approval of the waiver, the cost of medical and behavioral health care shall be a covered Medicaid benefit for an incarcerated child.

➔Section 8. The Office of the Auditor of Public Accounts shall contract with a third party to perform a full performance review of the preadjudication facilities operated by, and the preadjudication programs administered by, the Department of Juvenile Justice within the Justice and Public Safety Cabinet. The Office of the Auditor of Public Accounts shall contract with an entity that has experience in reviewing the performance of state agencies offering juvenile detention facilities and programs.

Notwithstanding any law to the contrary, the Office of the Auditor of Public Accounts shall procure professional services by a personal service contract through noncompetitive negotiation with an entity that has experience in reviewing the performance of state agencies offering juvenile detention facilities and programs. The Office of the Auditor of Public Accounts shall not contract with any entity that accredits Kentucky's preadjudication juvenile detention facilities or programs, or Kentucky's postadjudication juvenile detention facilities or programs.

The contracting party shall enter into a memorandum of understanding with the Legislative Oversight and Investigations Committee of the Legislative Research Commission concerning the exchange of materials and work papers and maintenance of confidentiality. The contract shall provide that the performance review results shall be reported to the Legislative Research Commission, and any materials related to the performance review shall be provided to the Legislative Research Commission. An initial preliminary report of the results of the performance review shall be submitted to the Legislative Research Commission by October 15, 2023.

➔Section 9. The contracted entity under Section 8 of this Act shall have the authority provided under KRS 43.080 and KRS 43.090. Employees of the Department of Juvenile Justice shall be allowed to participate in interviews outside the presence of any supervisor, official, or counsel representing the department or the Justice and Public Safety Cabinet. The work papers of the contracted entity shall be confidential and shall not be subject to subpoena, or to review or production under KRS 61.870 to KRS 61.884, the Kentucky Open Records Act.

➔Section 10. The scope of the performance review shall be for the period from January 1, 2016, to December 31, 2022, and shall include but not be limited to:

- (1) Interviews with front-line employees;
- (2) Interviews with law enforcement agencies in the area of the detention facility;
- (3) Review of adopted staffing procedures, and the compliance or noncompliance with the adopted procedures on-site;
- (4) Review of incident reporting procedures and incident reports;
- (5) Receipt, review, and actions taken by the Department of Juvenile Justice related to complaints and concerns from employees;
- (6) Review of all monthly reports; and
- (7) Review of all complaints and exit interview forms.

➔Section 11. General Fund moneys in the amount of \$38,000,000 from the General Fund appropriation of \$200,000,000 in fiscal year 2023-2024 set out in 2022 Ky. Acts ch. 199, Part I, N., 1. are hereby transferred as follows:

- (1) \$3,200,000 to the Department of Juvenile Justice in fiscal year 2023-2024 to maintain the salary increases provided to youth workers in juvenile detention centers in fiscal year 2022-2023;
- (2) \$4,800,000 to the Department of Juvenile Justice in fiscal year 2023-2024 to provide salary increases to other job classifications within the department; and

(3) \$30,000,000 to the Adult Correctional Institutions budget unit in fiscal year 2023-2024 to provide salary increases for correctional officers within the Department of Corrections facilities in the same manner as was provided to youth workers in juvenile detention facilities with a base pay of \$50,000.

→Section 12. There is hereby appropriated General Fund moneys in the amount of \$9,700,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for 146 additional youth workers in juvenile detention centers.

→Section 13. There is hereby appropriated General Fund moneys in the amount of \$200,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for the development of a youth offender management system.

→Section 14. There is hereby appropriated General Fund moneys in the amount of \$4,000,000 in fiscal year 2022-2023 to the Department of Juvenile Justice to provide security upgrades within the juvenile detention centers. Notwithstanding KRS 45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

→Section 15. There is hereby appropriated General Fund moneys in the amount of \$1,500,000 in fiscal year 2022-2023 to the Department of Juvenile Justice to establish a diversionary program to identify and provide treatment for any juvenile identified as suffering from severe mental illness, in conjunction with the State Interagency Council for Services and Supports to Children and Transition-age Youth, including any juvenile currently detained who shall be transferred as soon as practicable to a secure facility for treatment. As used in this section, "severe mental illness" means one or more mental, behavioral, or emotional disorders resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities. Notwithstanding KRS 45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

→Section 16. There is hereby appropriated General Fund moneys in the amount of \$1,750,000 in fiscal year 2022-2023 to the Department of Juvenile Justice to retain design experts to enable a return to the regional model of juvenile detention center facilities. Notwithstanding KRS 45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

→Section 17. Any Department of Juvenile Justice or Adult Correctional Institutions employee receiving an increase in overall compensation due to either a base salary increase, or the addition of new or increased locality pay, as part of the compensation enhancement process beginning in December 2022, shall not be eligible for an annual statewide increment or increase in fiscal year 2023-2024.

→Section 18. There is hereby appropriated General Fund moneys in the amount of \$250,000 in fiscal year 2022-2023 to the Department of Juvenile Justice for transportation costs for female youth detained by the Department of Juvenile Justice to be used until the juvenile detention system returns to a regional model. Such transportation costs shall be on a cost-reimbursement basis to the local law enforcement agency providing transport which shall certify the actual cost on a form provided by the Finance and Administration Cabinet. Reimbursement for the transport of male youth detained by the Department of Juvenile Justice may also be made in the same manner as females only upon a court order and only when the Department of Juvenile Justice cannot accommodate the transport. Reimbursement for transport of male youth shall only be made to the local law enforcement agency if it is to a juvenile justice facility other than the regional juvenile detention center in its catchment area. Notwithstanding KRS 45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

→Section 19. There is hereby appropriated General Fund moneys in the amount of \$500,000 in fiscal year 2022-2023 to the Auditor of Public Accounts budget unit to fund the performance review directed under Section 8 of this Act. Notwithstanding KRS 45.229, any portion of these funds not expended shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

→Section 20. Whereas the operations of the Department of Juvenile Justice and the safety of juveniles and staff are imperative for the betterment of 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 a law.

Signed by Governor March 27, 2023.