

CHAPTER 51

(SB 11)

AN ACT relating to juvenile justice.

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

➔Section 1. KRS 610.345 is amended to read as follows:

- (1) When a child is adjudicated guilty of an offense which classifies him or her as a youthful offender, the judge in the court in which the matter was tried shall direct the clerk to notify the superintendent of the public school district in which the child is enrolled or the principal of any 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. The court shall direct the appropriate prosecuting entity to give the school district or the school a statement of facts in the case. The superintendent shall notify the principal of the school in which the child is enrolled.]~~
- (2) When a child is adjudicated guilty of an offense which would classify him or her 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 or her as a youthful offender, the judge in the court in which the matter was tried shall direct the clerk to notify ~~[- within five (5) days of the order -]~~ the superintendent of the public school district in which the child is enrolled or the principal of any 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. The court shall authorize the county attorney to give the school district or the school a statement of facts in the case. The superintendent shall notify the principal of the school in which the child is enrolled.]~~
- (3) When a *court-designated worker receives notice that a county attorney has made a determination pursuant to KRS 635.010(1) that probable cause exists to file a public offense petition alleging that the child committed an offense that, if committed by an adult, would be a:*
 - (a) *Felony; or*
 - (b) *Misdemeanor involving:*
 1. *A controlled substance;*
 2. *The possession, carrying, or use of a deadly weapon;*
 3. *Physical injury to another person;*
 4. *Sexual contact;*
 5. *Sexual intercourse; or*
 6. *Deviate sexual intercourse;*

the court-designated worker shall notify the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school which the child attends of the charge. If the complaint is successfully diverted, the court-designated worker shall notify the superintendent or the principal of the successful diversion, and all records of the incident or notification created in the school district or the school under this subsection shall be destroyed and shall not be included in the child's school records.

- (4) ~~When [petition is filed against a child, or] a child is adjudicated guilty of an offense that *meets the criteria set forth in subsection (3)(a) or (b) of this section*, [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 judge in the court in which the matter is considered shall direct the clerk to notify the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school that the child attends of the charge, the adjudication, and the disposition of the case. *If the petition is dismissed or informally adjusted, the clerk shall notify the superintendent or the principal of the disposition, and all records of the incident or notification created in the school district or the school under this subsection shall be destroyed and shall not be included in the child's school records.*

- (5) The *notifications required in subsections (1) to (4) of this section*~~[notification]~~ shall be made within twenty-four (24) hours of the *county attorney's determination pursuant to KRS 635.010(1), successful completion of diversion, or entry of the court order*~~[time when the petition is filed]~~. The name of the complainant shall be deleted. The~~[court shall authorize the]~~ county attorney *may, upon request by*~~[to give]~~ the school district or the school, *provide* a statement of the facts in the case, not to include the complainant's name.~~[If the petition is dismissed, all records of the incident or notification created in the school district or the school under this subsection shall be destroyed, and shall not be included in the child's school records.]~~
- ~~(6)~~~~(4)~~ Notice~~[of adjudication]~~ to a district superintendent referenced in subsections (1) to (4)~~[(2) and (3)]~~ of this section shall be released by the superintendent to the principal *of the school in which the child is enrolled*. A principal of a public or private school receiving notice~~[of adjudication]~~ shall release the information to employees of the school having responsibility for classroom instruction or counseling of the child and may release it to other school personnel as described in subsection (7)~~[(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.
- ~~(7)~~~~(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 a district superintendent, 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.
- ~~(8)~~~~(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.
- ~~(9)~~~~(7)~~ Records or information received by the school pursuant to this section shall:
- (a) Be kept in a locked file, when not in use, to be opened only on permission of the administrator; *and*
 - (b) *For the purposes of destruction required in this section, not include education records, as defined in KRS 160.700, created by the school.*
- (10) *A superintendent of a public school district may designate an employee of the school district to receive notices and carry out the superintendent's responsibilities under this section. The superintendent shall provide the clerk and the court-designated worker with notice of any designation and the name and contact information for the superintendent's designee.*

➔Section 2. KRS 158.448 is amended to read as follows:

The Kentucky Department of Education shall develop protocols for student records within the student information system which:

- (1) Provide notice to schools receiving the records ~~[of prior offenses]~~ described in *Section 1 of this Act*~~[KRS 610.345]~~ *relating to*~~[committed by]~~ a student transferring to a new school or district;
- (2) Promote expeditious enrollment and placement of students in foster care who are transferring to a new school or district, in accordance with the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95;
- (3) Promote the sharing of information regarding students in foster care among schools, districts, the Cabinet for Health and Family Services, and a child's caseworker, pursuant to applicable law; and
- (4) Protect the privacy rights of students and parents guaranteed under the federal Family Educational Rights and Privacy Act.

➔Section 3. KRS 158.153 is amended to read as follows:

- (1) Unless the action is taken pursuant to KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a child based on information contained in a record of an adjudication of delinquency or conviction of an offense received by the school pursuant to KRS 610.345 or from any other source. Nothing in this subsection shall be construed to prohibit a local school board or school official from instituting disciplinary proceedings against any student for violating the discipline policy of the school or school district or taking actions necessary to protect staff and students. Actions to protect staff and students may be taken only after the principal makes a determination that the conduct of the student reflected in the

records of the school or obtained by the school from the court indicates a substantial likelihood of an immediate and continuing threat that the student will cause harm to students or staff, and that the restrictions to be ordered represent the least restrictive alternative available and appropriate to remedy the threat, and that the determination and supporting material be documented in the child's record. The action of the principal, in addition to or in lieu of any other procedure available, may be appealed by the child or the child's parent or guardian to the superintendent of the school system or to the Circuit Court in the county in which the school is located, and the appealing party may be represented by counsel.

- (2) ***Except as provided in Section 1 of this Act***, no school, school administrator, teacher, or other school employee who has custody of records received or maintained by the school pursuant to KRS 610.345 or who has received information contained in or relating to a record received by the school pursuant to KRS 610.345 shall disclose the fact of the record's existence, or any information contained in the record or received from the record to any other person, including but not limited to other teachers, school employees, pupils, or parents other than the pupil, or parents of the pupil who is the subject of the record.
- (3) The child and his parent or guardian shall have a civil cause of action against the school board and against any school administrator violating subsection (1) or (2) of this section or divulging information in violation of KRS 610.345 or 610.340. This civil cause of action shall be in addition to any other criminal or administrative remedy provided by law.
- (4) Nothing in this section shall be construed to prohibit a local board of education from establishing districtwide standards of behavior for students who participate in extracurricular and cocurricular activities, including athletics. A school principal may deny or terminate a student's eligibility to participate in extracurricular or cocurricular activities if the student has violated the local district behavior standards or the council's criteria for participation, as described in KRS 160.345(2)(i)8. A student's right to participate in extracurricular or cocurricular activities, including athletics, may be suspended, pending investigation of an allegation that the standards of behavior have been violated.

Signed by Governor April 4, 2024.