

1 AN ACT relating to corporal physical discipline.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 158.440 TO 158.449 IS CREATED
4 TO READ AS FOLLOWS:

5 *School administrators, teachers or other certified personnel, office staff, instructional*
6 *assistants, and coaches and extracurricular sponsors who are employed by a school*
7 *district shall not use corporal physical discipline, including the use of spanking,*
8 *shaking, or paddling, as a means of punishment, discipline, behavior modification, or*
9 *for any other reason. For the purposes of this section, "corporal physical discipline"*
10 *means the deliberate infliction of physical pain and does not include spontaneous*
11 *physical contact which is intended to protect a child from immediate danger.*

12 ➔Section 2. KRS 158.444 is amended to read as follows:

13 (1) The Kentucky Board of Education shall promulgate appropriate administrative
14 regulations relating to school safety, student discipline, and related matters.

15 (2) The Kentucky Department of Education shall:

16 (a) Collaborate with the Center for School Safety in carrying out the center's
17 mission;

18 (b) Establish and maintain a statewide data collection system by which school
19 districts shall report by sex, race, and grade level:

20 1. a. All incidents of violence and assault against school employees and
21 students;

22 b. All incidents of possession of guns or other deadly weapons on
23 school property or at school functions;

24 c. All incidents of the possession or use of alcohol, prescription drugs,
25 or controlled substances on school property or at school functions;
26 and

27 d. All incidents in which a student has been disciplined by the school

- 1 for a serious incident, including the nature of the discipline, or
2 charged criminally for conduct constituting a violation of any
3 offense specified in KRS Chapter 508; KRS 525.070 occurring on
4 school premises, on school-sponsored transportation, or at school
5 functions; or KRS 525.080;
- 6 2. The number of arrests, the charges, and whether civil damages were
7 pursued by the injured party;
- 8 3. The number of suspensions and expulsions~~, and corporal~~
9 ~~punishments~~; and
- 10 4. Data required during the assessment process under KRS 158.445; and
- 11 (c) Provide all data collected relating to this subsection to the Center for School
12 Safety according to timelines established by the center.
- 13 (3) The Department of Education shall provide the Office of Education Accountability
14 and the Education Assessment and Accountability Review Subcommittee with an
15 annual statistical report of the number and types of incidents reported under
16 subsection (2)(b) of this section. The report shall include all monthly data and
17 cumulative data for each reporting year. Reportable incidents shall be grouped in the
18 report in the same manner that the reportable incidents are grouped in subsection
19 (2)(b)1. of this section. Data in the report shall be sorted by individual school
20 district, then by individual schools within that district, and then by individual grades
21 within each school. The report shall not contain information personally identifying
22 any student. The reporting period shall be for an academic year, and shall be
23 delivered no later than August 31 of each year.
- 24 (4) All personally identifiable student data collected pursuant to subsection (2)(b) of this
25 section shall be subject to the confidentiality provisions of the Kentucky Family
26 Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal
27 Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its

1 implementing regulations.

2 (5) Parents, legal guardians, or other persons exercising custodial control or supervision
3 shall have the right to inspect or challenge the personally identifiable student records
4 as permitted under the Kentucky Family Education Rights and Privacy Act and the
5 federal Family Educational Rights and Privacy Act and implementing regulations.

6 (6) Data collected under this section on an individual student committing an incident
7 reportable under subsection (2)(b)1. of this section shall be placed in the student's
8 disciplinary record.

9 ➔Section 3. KRS 199.640 is amended to read as follows:

10 (1) Any facility or agency seeking to conduct, operate, or maintain any child-caring
11 facility or child-placing agency shall first obtain a license to conduct, operate, or
12 maintain the facility or agency from the cabinet.

13 (2) The cabinet shall:

14 (a) Develop standards, as provided in subsection (5) of this section, which must be
15 met by any facility or agency seeking to be licensed to conduct, operate, or
16 maintain a child-caring facility or child-placing agency;

17 (b) Issue licenses to any facility or agency found to meet established standards and
18 revoke or suspend a license after a hearing in any case that a facility or agency
19 holding a license is determined to have substantially failed to conform to the
20 requirements of the standards;

21 (c) Establish and follow procedures designed to insure that any facility or agency
22 licensed to conduct, operate, or maintain a child-caring facility or child-placing
23 agency complies with the requirements of the standards on an ongoing basis.

24 (3) Licenses shall be issued for a period of one (1) year from date of issue unless
25 revoked by the cabinet. Each licensed facility or agency shall be visited and inspected
26 at least one (1) time each year by a person authorized by the cabinet and meeting
27 specific qualifications established by the secretary of the cabinet in an administrative

1 regulation. A complete report of the visit and inspection shall be filed with the
2 cabinet.

3 (4) Each license issued shall specify the type of care or service the licensee is authorized
4 to perform. Each initial application for a license shall be accompanied by a fee of one
5 hundred dollars (\$100) and shall, except for provisional licenses, be renewable
6 annually upon expiration and reapplication when accompanied by a fee of fifty
7 dollars (\$50). The fees collected by the secretary shall be deposited in the State
8 Treasury and credited to a revolving fund account for the purpose of carrying out
9 the provisions of this section. The balance of said account shall lapse to the general
10 fund at the end of each biennium.

11 (5) (a) The secretary shall promulgate administrative regulations establishing basic
12 standards of care and service for child-caring facilities and child-placing
13 agencies relating to the health and safety of all children in the care of the
14 facility or agency, the basic components for a quality program, as referenced
15 below, and any other factors as may be necessary to promote the welfare of
16 children cared for or placed by the agencies and facilities. Standards
17 established may vary depending on the capacity of the agency or facility
18 seeking licensure. These administrative regulations shall establish standards
19 that insure that:

- 20 1. The treatment program offered by the facility or agency is directed
21 toward child safety, improved child functioning, improved family
22 functioning, and continuity and permanence for the child;
- 23 2. The facility or agency has on staff, or has contracted with, individuals
24 who are qualified to meet the treatment needs of the children being
25 served, including their psychological and psychiatric needs;
- 26 3. The facility or agency has procedures in place to insure that its staff
27 receives ongoing training and that all staff members who are required to

- 1 do so meet all regional and national standards;
- 2 4. The facility or agency develops an integrated, outcomes-based treatment
3 plan that meets the health, mental health, education, safety, and security
4 needs of each child in its care;
- 5 5. The facility or agency has procedures in place to include parents, family,
6 and other caregivers in a child's treatment program;
- 7 6. The facility or agency has procedures in place whereby it evaluates its
8 programs on a quarterly basis and documents changes in the program if
9 the results of the review indicate a change is needed;
- 10 7. The facility or agency makes available quality programs for substance
11 abuse prevention and treatment with providers licensed under KRS
12 Chapter 222 as part of its treatment services;
- 13 8. The facility or agency initiates discharge planning at admission and
14 provides sufficient aftercare; and
- 15 9. The facility or agency has procedures in place that outline the structure
16 and objectives of cooperative relationships with the community within
17 which it is located and the local school district.
- 18 (b) The secretary shall promulgate regulations establishing recordkeeping and
19 reporting requirements and standards for licensed agencies and facilities that
20 recognize the electronic storage and retrieval of information for those facilities
21 that possess the necessary technology and that include, at a minimum, the
22 following information relating to children in the care of the agency or facility:
- 23 1. The name, age, social security number, county of origin, and all former
24 residences of the child;
- 25 2. The names, residences, and occupations, if available, of the child's
26 parents;
- 27 3. The date on which the child was received by the agency or facility; the

1 date on which the child was placed in a foster home or made available for
2 adoption; and the name, occupation, and residence of any person with
3 whom a child is placed; and

4 4. A brief and continuing written narrative history of each child covering
5 the period during which the child is in the care of the agency or facility.

6 (c) The secretary may promulgate administrative regulations creating separate
7 licensure standards for different types of facilities.

8 (d) The secretary shall promulgate administrative regulations to establish practices
9 and procedures for the inspection of child-caring facilities and child-placing
10 agencies. These administrative regulations shall establish a uniform reporting
11 mechanism that includes guidelines for enforcement.

12 (6) Any administrative regulations promulgated pursuant to KRS Chapter 13A to
13 govern services provided by church-related privately operated child-caring agencies
14 or facilities shall ~~not~~ prohibit the use of ~~reasonable~~ corporal physical discipline
15 ~~which complies with the provisions of KRS 503.110(1)~~, including the use of
16 spanking or paddling, as a means of punishment, discipline, or behavior modification
17 and shall prohibit the employment of persons convicted of any sexual offense with
18 any child-caring facility or child-placing agency.

19 (7) All records regarding children or facts learned about children and their parents and
20 relatives by any licensed agency or facility shall be deemed confidential in the same
21 manner and subject to the same provisions as similar records of the cabinet. The
22 information thus obtained shall not be published or be open for public inspection
23 except to authorized employees of the cabinet or of such licensed agency or facility
24 in performance of their duties.

25 ➔Section 4. KRS 503.110 is amended to read as follows:

26 (1) ~~The use of physical force by a defendant upon another person is justifiable when the~~
27 ~~defendant is a parent, guardian, or other person entrusted with the care and~~

1 supervision of a minor or an incompetent person or when the defendant is a teacher
2 or other person entrusted with the care and supervision of a minor, for a special
3 purpose, and:

4 (a) ~~The defendant believes that the force used is necessary to promote the welfare~~
5 ~~of a minor or mentally disabled person or, if the defendant's responsibility for~~
6 ~~the minor or mentally disabled person is for a special purpose, to further that~~
7 ~~special purpose or maintain reasonable discipline in a school, class, or other~~
8 ~~group; and~~

9 (b) ~~The force that is used is not designed to cause or known to create a substantial~~
10 ~~risk of causing death, serious physical injury, disfigurement, extreme pain, or~~
11 ~~extreme mental distress.~~

12 (2) ~~]~~The use of physical force by a defendant upon another ***adult*** person is justifiable
13 when the defendant is a warden or other authorized official of a correctional
14 institution, and:

15 (a) The defendant believes that the force used is necessary for the purpose of
16 enforcing the lawful rules of the institution;

17 (b) The degree of force used is not forbidden by any statute governing the
18 administration of the institution; and

19 (c) If deadly force is used, its use is otherwise justifiable under this code.

20 (2)~~(3)~~ The use of physical force by a defendant upon another ***adult*** person is
21 justifiable when the defendant is a person responsible for the operation of or the
22 maintenance of order in a vehicle or other carrier of passengers and the defendant
23 believes that such force is necessary to prevent interference with its operation or to
24 maintain order in the vehicle or other carrier, except that deadly physical force may
25 be used only when the defendant believes it necessary to prevent death or serious
26 physical injury.

27 (3)~~(4)~~ The use of physical force by a defendant upon another ***adult*** person is

1 justifiable when the defendant is a doctor or other therapist or a person assisting him
2 at his direction, and:

3 (a) The force is used for the purpose of administering a recognized form of
4 treatment which the defendant believes to be adapted to promoting the
5 physical or mental health of the patient; and

6 (b) The treatment is administered with the consent of the patient or~~[, if the patient~~
7 ~~is a minor or a mentally disabled person, with the consent of the parent,~~
8 ~~guardian, or other person legally competent to consent in his behalf, or]~~ the
9 treatment is administered in an emergency when the defendant believes that no
10 one competent to consent can be consulted and that a reasonable person,
11 wishing to safeguard the welfare of the patient, would consent.