

1 AN ACT relating to juvenile justice.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO  
4 READ AS FOLLOWS:

5 *The Department of Juvenile Justice shall, thirty (30) days after the end of each quarter*  
6 *of the calendar year, report to the Criminal Justice Statistical Analysis Center created*  
7 *pursuant to KRS 15.280 data on children under supervision, which shall include*  
8 *monthly population totals and a monthly breakdown by age, race, gender, presence of*  
9 *a disability, whether the child's father is part of the household, and type of supervision*  
10 *or placement. A child shall be identified as having a disability if the child has been*  
11 *referred for evaluation or admitted to special education in accordance with 707 KAR*  
12 *1:300 or is eligible for accommodations under Section 504 of the Rehabilitation Act of*  
13 *1973 or the Americans with Disabilities Act. Race shall be reported using current*  
14 *categories which satisfy the standards established by the United States Office of*  
15 *Management and Budget.*

16 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO  
17 READ AS FOLLOWS:

18 *By February 1, 2020, the Department of Juvenile Justice shall submit to the Juvenile*  
19 *Justice Advisory Board created pursuant to KRS 15A.065 and to the oversight council*  
20 *created in KRS 15A.063 the current three (3) year plan created in accordance with the*  
21 *federal Juvenile Justice and Delinquency Prevention Act to address disproportionate*  
22 *minority contact with, and involvement in, the juvenile justice system. By February 1*  
23 *of each year thereafter, the Department of Juvenile Justice shall submit the updated*  
24 *plan and a report describing its progress in implementing the plan.*

25 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO  
26 READ AS FOLLOWS:

27 *The Administrative Office of the Courts shall:*

- 1 (1) By the end of each quarter of the calendar year, report to the Criminal Justice  
2 Statistical Analysis Center created pursuant to KRS 15.280 data on children  
3 involved in the juvenile justice system, including the number of complaints filed,  
4 diverted, and referred to court, and the number of referrals to family  
5 accountability, intervention, and response teams established pursuant to Section  
6 20 of this Act. The report shall include monthly totals and a monthly breakdown  
7 by age, race, gender, presence of a disability, whether the child's father is part of  
8 the household, and whether the case involved a public or status offense. A child  
9 shall be identified as having a disability if the child has been referred for  
10 evaluation or admitted to special education in accordance with 707 KAR 1:300 or  
11 is eligible for accommodations under Section 504 of the Rehabilitation Act of  
12 1973 or the Americans with Disabilities Act. Race shall be reported using current  
13 categories which satisfy the standards established by the United States Office of  
14 Management and Budget;
- 15 (2) By January 1, 2021, develop and submit to the Juvenile Justice Advisory Board  
16 created pursuant to KRS 15A.065 and to the oversight council created in KRS  
17 15A.063 a three (3) year plan to address disproportionate minority contact with,  
18 and involvement in, the juvenile justice system. By January 1 of each year  
19 thereafter, the Administrative Office of the Courts shall submit an updated plan  
20 and a report describing its progress in implementing the plan; and
- 21 (3) Develop and implement evidence-based professional development programs for  
22 staff who interact with or who are responsible for the treatment, supervision, or  
23 placement of children, that include training on juvenile justice research relating  
24 to effectiveness of juvenile justice interventions, impacts of out-of-home  
25 placement, alternatives to incarceration, use of graduated sanctions, case  
26 planning, administration of a validated risk and needs assessment, and training  
27 to address domestic violence, trauma, implicit bias, cultural competence, and

1       *family engagement.*

2       ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
3 READ AS FOLLOWS:

4       *By January 1, 2021, the Kentucky Department of Education shall develop and submit*  
5 *to the Juvenile Justice Advisory Board created pursuant to KRS 15A.065 and to the*  
6 *oversight council created in KRS 15A.063 a three (3) year plan to address*  
7 *disproportionate minority contact with school disciplinary systems and referrals from*  
8 *schools to the juvenile justice system. By January 1 of each year thereafter, the*  
9 *Kentucky Department of Education shall submit an updated plan and a report*  
10 *describing its progress in implementing the plan.*

11       ➔Section 5. KRS 156.095 is amended to read as follows:

12       (1) The Kentucky Department of Education shall establish, direct, and maintain a  
13       statewide program of professional development to improve instruction in the public  
14       schools.

15       (2) Each local school district superintendent shall appoint a certified school employee  
16       to fulfill the role and responsibilities of a professional development coordinator who  
17       shall disseminate professional development information to schools and personnel.  
18       Upon request by a school council or any employees of the district, the coordinator  
19       shall provide technical assistance to the council or the personnel that may include  
20       assisting with needs assessments, analyzing school data, planning and evaluation  
21       assistance, organizing districtwide programs requested by school councils or groups  
22       of teachers, or other coordination activities.

23       (a) The manner of appointment, qualifications, and other duties of the  
24       professional development coordinator shall be established by Kentucky Board  
25       of Education through promulgation of administrative regulations.

26       (b) The local district professional development coordinator shall participate in the  
27       Kentucky Department of Education annual training program for local school

1 district professional development coordinators. The training program may  
2 include, but not be limited to, the demonstration of various approaches to  
3 needs assessment and planning; strategies for implementing long-term,  
4 school-based professional development; strategies for strengthening teachers'  
5 roles in the planning, development, and evaluation of professional  
6 development; and demonstrations of model professional development  
7 programs. The training shall include information about teacher learning  
8 opportunities relating to the core content standards. The Kentucky Department  
9 of Education shall regularly collect and distribute this information.

10 (3) The Kentucky Department of Education shall provide or facilitate optional,  
11 professional development programs for certified personnel throughout the  
12 Commonwealth that are based on the statewide needs of teachers, administrators,  
13 and other education personnel. Programs may include classified staff and parents  
14 when appropriate. Programs offered or facilitated by the department shall be at  
15 locations and times convenient to local school personnel and shall be made  
16 accessible through the use of technology when appropriate. They shall include  
17 programs that: address the goals for Kentucky schools as stated in KRS 158.6451,  
18 including reducing the achievement gaps as determined by an equity analysis of the  
19 disaggregated student performance data from the state assessment program  
20 developed under KRS 158.6453; engage educators in effective learning processes  
21 and foster collegiality and collaboration; and provide support for staff to incorporate  
22 newly acquired skills into their work through practicing the skills, gathering  
23 information about the results, and reflecting on their efforts. Professional  
24 development programs shall be made available to teachers based on their needs  
25 which shall include but not be limited to the following areas:

26 (a) Strategies to reduce the achievement gaps among various groups of students  
27 and to provide continuous progress;

- 1 (b) Curriculum content and methods of instruction for each content area,  
2 including differentiated instruction;
- 3 (c) School-based decision making;
- 4 (d) Assessment literacy;
- 5 (e) Integration of performance-based student assessment into daily classroom  
6 instruction;
- 7 (f) Nongraded primary programs;
- 8 (g) Research-based instructional practices;
- 9 (h) Instructional uses of technology;
- 10 (i) Curriculum design to serve the needs of students with diverse learning styles  
11 and skills and of students of diverse cultures;
- 12 (j) Instruction in reading, including phonics, phonemic awareness,  
13 comprehension, fluency, and vocabulary;
- 14 (k) Educational leadership; and
- 15 (l) Strategies to incorporate character education throughout the curriculum.
- 16 (4) The department shall assist school personnel in assessing the impact of professional  
17 development on their instructional practices and student learning.
- 18 (5) The department shall assist districts and school councils with the development of  
19 long-term school and district improvement plans that include multiple strategies for  
20 professional development based on the assessment of needs at the school level.
- 21 (a) Professional development strategies may include, but are not limited to,  
22 participation in subject matter academies, teacher networks, training institutes,  
23 workshops, seminars, and study groups; collegial planning; action research;  
24 mentoring programs; appropriate university courses; and other forms of  
25 professional development.
- 26 (b) In planning the use of the four (4) days for professional development under  
27 KRS 158.070, school councils and districts shall give priority to programs that

1 increase teachers' understanding of curriculum content and methods of  
2 instruction appropriate for each content area based on individual school plans.  
3 The district may use up to one (1) day to provide district-wide training and  
4 training that is mandated by state or federal law. Only those employees  
5 identified in the mandate or affected by the mandate shall be required to attend  
6 the training.

7 (c) State funds allocated for professional development shall be used to support  
8 professional development initiatives that are consistent with local school  
9 improvement and professional development plans and teachers' individual  
10 growth plans. The funds may be used throughout the year for all staff,  
11 including classified and certified staff and parents on school councils or  
12 committees. A portion of the funds allocated to each school council under  
13 KRS 160.345 may be used to prepare or enhance the teachers' knowledge and  
14 teaching practices related to the content and subject matter that are required  
15 for their specific classroom assignments.

16 (6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services  
17 shall post on its Web page suicide prevention awareness information, to  
18 include recognizing the warning signs of a suicide crisis. The Web page shall  
19 include information related to suicide prevention training opportunities  
20 offered by the cabinet or an agency recognized by the cabinet as a training  
21 provider.

22 (b) By September 15, 2018, and September 15 of each year thereafter, every  
23 public middle and high school administrator shall disseminate suicide  
24 prevention awareness information to all middle and high school students. The  
25 information may be obtained from the Cabinet for Health and Family Services  
26 or from a commercially developed suicide prevention training program.

27 (c) 1. Beginning with the 2018-2019 school year, and every other year

1           thereafter, a minimum of one (1) hour of high-quality suicide prevention  
2           training shall be required for all high school and middle school  
3           principals, guidance counselors, and teachers. The training shall be  
4           provided either in person, by live streaming, or via a video recording and  
5           may be included in the four (4) days of professional development under  
6           KRS 158.070.

7           2. When a staff member subject to the training under subparagraph 1. of  
8           this paragraph is initially hired during a school year in which the training  
9           is not required, the local district shall provide suicide prevention  
10          materials to the staff member for review.

11          (d) The requirements of paragraphs (b) and (c) of this subsection shall apply to  
12          public charter schools as a health and safety requirement under KRS  
13          160.1592(1).

14          (7) (a) The Kentucky Department of Education shall develop and maintain a list of  
15          approved comprehensive evidence-informed trainings on child abuse and  
16          neglect prevention, recognition, and reporting that encompass child physical,  
17          sexual, and emotional abuse and neglect.

18          (b) The trainings shall be Web-based or in-person and cover, at a minimum, the  
19          following topics:

- 20           1. Recognizing child physical, sexual, and emotional abuse and neglect;
- 21           2. Reporting suspected child abuse and neglect in Kentucky as required by  
22           KRS 620.030 and the appropriate documentation;
- 23           3. Responding to the child; and
- 24           4. Understanding the response of child protective services.

25          (c) The trainings shall include a questionnaire or other basic assessment tool upon  
26          completion to document basic knowledge of training components.

27          (d) Each local school board shall adopt one (1) or more trainings from the list

- 1 approved by the Department of Education to be implemented by schools.
- 2 (e) All current school administrators, certified personnel, office staff,  
3 instructional assistants, and coaches and extracurricular sponsors who are  
4 employed by the school district shall complete the implemented training or  
5 trainings by January 31, 2017, and then every two (2) years after.
- 6 (f) All school administrators, certified personnel, office staff, instructional  
7 assistants, and coaches and extracurricular sponsors who are employed by the  
8 school district hired after January 31, 2017, shall complete the implemented  
9 training or trainings within ninety (90) days of being hired and then every two  
10 (2) years after.
- 11 (g) Every public school shall prominently display the statewide child abuse  
12 hotline number administered by the Cabinet for Health and Family Services,  
13 and the National Human Trafficking Reporting Hotline number administered  
14 by the United States Department for Health and Human Services.
- 15 (8) The Department of Education shall establish an electronic consumer bulletin board  
16 that posts information regarding professional development providers and programs  
17 as a service to school district central office personnel, school councils, teachers, and  
18 administrators. Participation on the electronic consumer bulletin board shall be  
19 voluntary for professional development providers or vendors, but shall include all  
20 programs sponsored by the department. Participants shall provide the following  
21 information: program title; name of provider or vendor; qualifications of the  
22 presenters or instructors; objectives of the program; program length; services  
23 provided, including follow-up support; costs for participation and costs of materials;  
24 names of previous users of the program, addresses, and telephone numbers; and  
25 arrangements required. Posting information on the bulletin board by the department  
26 shall not be viewed as an endorsement of the quality of any specific provider or  
27 program.

- 1 (9) The Department of Education shall provide training to address the characteristics  
2 and instructional needs of students at risk of school failure and most likely to drop  
3 out of school. The training shall be developed to meet the specific needs of all  
4 certified and classified personnel depending on their relationship with these  
5 students. The training for instructional personnel shall be designed to provide and  
6 enhance skills of personnel to:
- 7 (a) Identify at-risk students early in elementary schools as well as at-risk and  
8 potential dropouts in the middle and high schools;
  - 9 (b) Plan specific instructional strategies to teach at-risk students;
  - 10 (c) Improve the academic achievement of students at risk of school failure by  
11 providing individualized and extra instructional support to increase  
12 expectations for targeted students;
  - 13 (d) Involve parents as partners in ways to help their children and to improve their  
14 children's academic progress; and
  - 15 (e) Significantly reduce the dropout rate of all students.
- 16 (10) The department shall establish teacher academies to the extent funding is available  
17 in cooperation with postsecondary education institutions for elementary, middle  
18 school, and high school faculty in core disciplines, utilizing facilities and faculty  
19 from universities and colleges, local school districts, and other appropriate agencies  
20 throughout the state. Priority for participation shall be given to those teachers who  
21 are teaching core discipline courses for which they do not have a major or minor or  
22 the equivalent. Participation of teachers shall be voluntary.
- 23 (11) **By January 1, 2021, the Kentucky Department of Education shall develop and**  
24 **implement evidence-based professional development programs for all certified**  
25 **personnel, school resource officers, and school security officers that include**  
26 **training on juvenile justice research relating to effectiveness of juvenile justice**  
27 **interventions, impacts of out-of-home placement, alternatives to incarceration,**

1       *use of graduated sanctions, case planning, administration of a validated risk and*  
2       *needs assessment, and training to address domestic violence, trauma, implicit*  
3       *bias, cultural competence, and family engagement.*

4       (12) The department shall annually provide to the oversight council established in KRS  
5       15A.063~~1~~ the information received from local schools pursuant to KRS 158.449.

6       ➔Section 6. KRS 158.441 is amended to read as follows:

7       As used in this chapter, unless the context requires otherwise:

8       (1) "Intervention services" means any preventive, developmental, corrective, supportive  
9       services or treatment provided to a student who is at risk of school failure, is at risk  
10       of participation in violent behavior or juvenile crime, or has been expelled from the  
11       school district. Services may include, but are not limited to, screening to identify  
12       students at risk for emotional disabilities and antisocial behavior; direct instruction  
13       in academic, social, problem solving, and conflict resolution skills; alternative  
14       educational programs; psychological services; identification and assessment of  
15       abilities; counseling services; medical services; day treatment; family services;  
16       work and community service programs;

17       (2) "School resource officer" means a sworn law enforcement officer who has  
18       specialized training to work with youth at a school site. The school resource officer  
19       shall be employed:

20       (a) through a contract between a local law enforcement agency and a school  
21       district; or

22       (b) Through a contract as secondary employment for an officer, as defined in KRS  
23       16.010, between the Department of Kentucky State Police and a school  
24       district *and shall be subject to training requirements of the school district;*  
25       and

26       (3) "School security officer" means a person employed by a local board of education  
27       who has been appointed a special law enforcement officer pursuant to KRS 61.902

1 and who has specialized training to work with youth at a school site.

2 ➔Section 7. KRS 158.444 is amended to read as follows:

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

5 (2) The Kentucky Department of Education shall:

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

8 (b) Establish and maintain a statewide data collection system by which school  
9 districts shall report by age, race, gender~~[sex, race]~~, and grade level:

10 1. a. All incidents of violence and assault against school employees and  
11 students;

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

14 c. All incidents of the possession or use of alcohol, prescription  
15 drugs, or controlled substances on school property or at school  
16 functions; and

17 d. All incidents in which a student has been disciplined by the school  
18 for a serious incident, including the nature of the discipline, or  
19 charged criminally for conduct constituting a violation of any  
20 offense specified in KRS Chapter 508; KRS 525.070 occurring on  
21 school premises, on school-sponsored transportation, or at school  
22 functions; or KRS 525.080;

23 2. The number of arrests on school property, at school functions, or  
24 relating to incidents on school property or at school functions, the  
25 charges, the agency, office, or person initiating the charges, and  
26 whether civil damages were pursued by the injured party;

27 3. The number of suspensions, expulsions, and corporal punishments; and

- 1           4.    Data required during the assessment process under KRS 158.445;~~and~~
- 2           (c)    Provide all data collected relating to this subsection to the Center for School
- 3           Safety according to timelines established by the center;
- 4           *(d)    By October 2021, and by October 1 of each year thereafter, report all data*
- 5           *collected pursuant to this subsection relating to use of physical restraint and*
- 6           *seclusion to the Protection and Advocacy Division of the Department of*
- 7           *Public Advocacy; and*
- 8           *(e)    By October 2021, and by October 1 of each year thereafter, report all data*
- 9           *collected pursuant to this subsection and all data collected pursuant to*
- 10          *Sections 4 and 41 of this Act to the Criminal Justice Statistical Analysis*
- 11          *Center created pursuant to KRS 15.280.*
- 12       (3)    The Department of Education shall provide the Office of Education Accountability
- 13           and the Education Assessment and Accountability Review Subcommittee with an
- 14           annual statistical report of the number and types of incidents reported under
- 15           subsection (2)(b) of this section. The report shall include all monthly data and
- 16           cumulative data for each reporting year. Reportable incidents shall be grouped in
- 17           the report in the same manner that the reportable incidents are grouped in
- 18           subsection (2)(b)1. of this section. Data in the report shall be sorted by individual
- 19           school district, then by individual schools within that district, and then by individual
- 20           grades within each school. The report shall not contain information personally
- 21           identifying any student. The reporting period shall be for an academic year, and
- 22           shall be delivered no later than August 31 of each year.
- 23       (4)    All personally identifiable student data collected pursuant to subsection (2)(b) of
- 24           this section shall be subject to the confidentiality provisions of the Kentucky Family
- 25           Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal
- 26           Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its
- 27           implementing regulations.

1 (5) Parents, legal guardians, or other persons exercising custodial control or supervision  
 2 shall have the right to inspect or challenge the personally identifiable student  
 3 records as permitted under the Kentucky Family Education Rights and Privacy Act  
 4 and the federal Family Educational Rights and Privacy Act and implementing  
 5 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 **(7) Race shall be reported using current categories which satisfy the standards**  
 10 **established by the United States Office of Management and Budget.**

11 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 31 IS CREATED TO  
 12 READ AS FOLLOWS:

13 **(1) The Protection and Advocacy Division may review all uses of physical restraint or**  
 14 **seclusion reported pursuant to subsection (2)(d) of Section 7 of this Act which**  
 15 **involves:**

16 **(a) Repeated use for an individual student;**

17 **(b) Multiple uses in the same classroom; or**

18 **(c) Multiple uses by the same individual.**

19 **(2) The Protection and Advocacy Division may conduct a comprehensive**  
 20 **investigation of any incidents reviewed under subsection (1) of this section that**  
 21 **involve a child with a disability. The division may receive unredacted copies of**  
 22 **the school incident reports related to the use of restraint or seclusion, and the**  
 23 **records and documentation of the Cabinet for Health and Family Services**  
 24 **regarding any investigation into allegations of abuse arising out of the use of**  
 25 **restraint or seclusion. The division may also obtain the identity and contact**  
 26 **information for the parent or guardian of any student subject to a restraint or**  
 27 **seclusion or for whom the cabinet has investigated allegations that the student**

1 was an alleged victim of abuse relating to the use of restraint or seclusion at  
 2 school. Information and record copies that are confidential under state or federal  
 3 law and are provided to the division by the Cabinet for Health and Family  
 4 Services, the Department for Community Based Services, the Kentucky  
 5 Department of Education, or any local school district for review shall not become  
 6 the information and records of the division and shall not lose their confidentiality  
 7 by virtue of the division's access to the information and records. The division  
 8 shall maintain the confidentiality of all information and records provided  
 9 pursuant to this section. Information and record copies provided to the division  
 10 for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to  
 11 61.884.

12 (3) The Protection and Advocacy Division shall report annually aggregated statistics  
 13 of reports, findings from reviews and investigations, and recommendations for  
 14 policy, regulatory, or statutory changes to the Juvenile Justice Advisory Board  
 15 created pursuant to KRS 15A.065, the oversight council created in KRS 15A.063,  
 16 and the Kentucky Department of Education.

17 ➔Section 9. KRS 158.449 is amended to read as follows:

18 Each local school shall annually provide to the Department of Education, through the  
 19 Kentucky Department of Education's student information system, an assessment of school  
 20 incidents relating to disruptive behaviors resulting in a complaint, including ~~whether~~:

- 21 (1) Whether the incident involved a public offense or noncriminal misconduct;  
 22 (2) Whether the incident was reported to law enforcement or the court-designated  
 23 worker ~~and the charge or type of noncriminal misconduct that was the basis of the~~  
 24 ~~referral or report~~; ~~and~~ }  
 25 (3) Whether the report was initiated by a school resource officer or school security  
 26 officer;  
 27 (4) The charge or type of noncriminal misconduct that was the basis of the referral

1 or report; and

2 (5) The age, race, and gender of the student, whether the child's father is part of the  
3 household, and whether a disability is present. A child shall be identified as  
4 having a disability if the child has been referred for evaluation or admitted to  
5 special education in accordance with 707 KAR 1:300 or is eligible for  
6 accommodations under Section 504 of the Rehabilitation Act of 1973 or the  
7 Americans with Disabilities Act. Race shall be reported using current categories  
8 which satisfy the standards established by the United States Office of  
9 Management and Budget.

10 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 194A IS CREATED  
11 TO READ AS FOLLOWS:

12 The Cabinet for Health and Family Services shall:

13 (1) By the end of each quarter of the calendar year, report to the Criminal Justice  
14 Statistical Analysis Center created pursuant to KRS 15.280 data on children in  
15 out-of-home care, including the number of children entering out-of-home care in  
16 that quarter. The report shall include monthly totals and a monthly breakdown by  
17 age, race, gender, presence of a disability, whether the child's father is part of the  
18 household, and type of placement. A child shall be identified as having a  
19 disability if the child has been referred for evaluation or admitted to special  
20 education in accordance with 707 KAR 1:300 or is eligible for accommodations  
21 under Section 504 of the Rehabilitation Act of 1973 or the Americans with  
22 Disabilities Act. Race shall be reported using current categories which satisfy the  
23 standards established by the United States Office of Management and Budget;

24 (2) By January 1, 2021, develop and submit to the Juvenile Justice Advisory Board  
25 created pursuant to KRS 15A.065 and to the oversight council created in KRS  
26 15A.063 a three (3) year plan to address disproportionate minority representation  
27 among children placed out of home or committed to the custody of the

1 department. By January 1 of each year thereafter, the Cabinet for Health and  
 2 Family Services shall submit an updated plan and a report describing its progress  
 3 in implementing the plan; and

4 (3) Develop and implement evidence-based professional development programs for  
 5 department staff who interact with or who are responsible for the treatment,  
 6 supervision, or placement of children, that include training on juvenile justice  
 7 research relating to effectiveness of juvenile justice interventions, impacts of out-  
 8 of-home placement, alternatives to incarceration, use of graduated sanctions,  
 9 case planning, administration of a validated risk and needs assessment, and  
 10 training to address domestic violence, trauma, implicit bias, cultural competence,  
 11 and family engagement.

12 ➔Section 11. KRS 605.020 is amended to read as follows:

13 (1) Standards for the employment of court-designated workers shall be set by the  
 14 Administrative Office of the Courts.

15 (2) If the Administrative Office of the Courts contracts with a public agency for the  
 16 provision of the court-designated worker or workers, the contract shall specify that  
 17 it is for the services, in part or in whole, of named personnel of that agency and no  
 18 others. Personnel of a public agency under contract to the Administrative Office of  
 19 the Courts selected as court-designated workers shall be selected in the manner set  
 20 forth in the contract by and between the public agency and the Administrative  
 21 Office of the Courts; shall be under the control of the Administrative Office of the  
 22 Courts and the court to which they are assigned; and shall be subject to the same  
 23 powers, duties, and restrictions as are court-designated workers employed by the  
 24 Administrative Office of the Courts.

25 (3) Court-designated workers, whether employed by the Administrative Office of the  
 26 Courts or by a public agency under contract to the Administrative Office of the  
 27 Courts, may be disciplined or removed from the position of court-designated worker

1 in the manner specified in the:

2 (a) Personnel policies for employees of the Administrative Office of the Courts or  
3 the personnel policies of the contract agencies as approved by the  
4 Administrative Office of the Courts; and

5 (b) Contract by and between the public agency and the Administrative Office of  
6 the Courts.

7 (4) The Administrative Office of the Courts shall not contract with private  
8 corporations, persons, or agencies for the services of court-designated workers.

9 (5) The Administrative Office of the Courts shall provide training to all court-  
10 designated workers in:

11 (a) The administration of evidence-based screening instruments and, for some  
12 workers as appropriate, the administration of risk and needs assessments;

13 (b) Identification of appropriate services for children and families;

14 (c) Techniques for diversion agreement implementation and supervision;

15 (d) Identifying and understanding the issues that led to the filing of a complaint,  
16 which may include recognition of signs of trauma, disability, behavioral,  
17 mental health, or substance abuse issues, in order to determine appropriate  
18 referrals; and

19 (e) Juvenile justice research, best practices, and any other subject deemed  
20 appropriate and available.

21 (6) (a) The Administrative Office of the Courts shall collect and track data, and  
22 provide an annual report to the oversight council created in KRS 15A.063  
23 containing the following information:

24 1. The number and type of complaints received by each court-designated  
25 worker, **including a breakdown by age, race, gender, presence of a**  
26 **disability, and whether the child's father is part of the household;**

27 2. The outcome of each complaint, including whether a referral was made

- 1 to the county attorney or the Department for Community Based  
2 Services, and a breakdown by age, race, gender, presence of a  
3 disability, and whether the child's father is part of the household;
- 4 3. The number of children committed to the Department for Community  
5 Based Services pursuant to KRS Chapter 620 who were originally  
6 charged with status offenses under KRS Chapter 630 or whose cases  
7 were amended from status to dependency, neglect, and abuse, including  
8 a breakdown by age, race, gender, presence of a disability, and  
9 whether the child's father is part of the household; and
- 10 4. Whether a child who successfully completed a diversion agreement was,  
11 within one (1) year following completion of the agreement, adjudicated  
12 a public offender or convicted in ~~an~~<sup>the</sup> adult court of a criminal  
13 offense, including a breakdown by age, race, gender, presence of a  
14 disability, and whether the child's father is part of the household.
- 15 (b) Personally identifiable information of the court-designated worker shall not be  
16 provided but shall be retained by the Administrative Office of the Courts to  
17 address the need for additional staff training or other appropriate action.
- 18 (7) The Administrative Office of the Courts shall develop a graduated response  
19 protocol, consisting of a continuum of responses from the least restrictive to the  
20 most restrictive, for court-designated workers to utilize in response to violations of  
21 the terms of a diversion agreement.
- 22 (8) The Administrative Office of the Courts shall collaborate with the Justice and  
23 Public Safety Cabinet and provide technical assistance to judicial districts in  
24 implementing the fiscal incentive program established in KRS 15A.062.
- 25 (9) The Administrative Office of the Courts shall act as the fiscal agent to receive funds  
26 awarded pursuant to KRS 15A.062.
- 27 (10) The Administrative Office of the Courts shall, by regulation, establish a form

1 ~~complaint~~ to be used in filing all complaints with the court-designated worker.  
2 The form shall contain the requirements of KRS 610.020, and if the complaint is  
3 filed by a school district, shall require that the director of pupil personnel state that  
4 he or she documented the home conditions of the student and the intervention  
5 strategies attempted, as required by KRS 159.140, and that he or she attempted to  
6 conduct a conference with the child and a parent.

7 ➔Section 12. KRS 15.334 is amended to read as follows:

8 (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects  
9 to be taught to all students attending a law enforcement basic training course that  
10 include but are not limited to:

11 (a) Abuse, neglect, and exploitation of the elderly and other crimes against the  
12 elderly, including the use of multidisciplinary teams in the investigation and  
13 prosecution of crimes against the elderly;

14 (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined  
15 in KRS 620.020, child physical and sexual abuse, and rape; child  
16 development; the effects of abuse and crime on adult and child victims,  
17 including the impact of abuse and violence on child development; legal  
18 remedies for protection; lethality and risk issues; profiles of offenders and  
19 offender treatment; model protocols for addressing domestic violence, rape,  
20 pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;  
21 available community resources and victim services; and reporting  
22 requirements. This training shall be developed in consultation with legal,  
23 victim services, victim advocacy, and mental health professionals with  
24 expertise in domestic violence, child abuse, and rape. Training in recognizing  
25 pediatric abusive head trauma may be designed in collaboration with  
26 organizations and agencies that specialize in the prevention and recognition of  
27 pediatric abusive head trauma approved by the secretary of the Cabinet for

1 Health and Family Services;

2 (c) Human immunodeficiency virus infection and acquired immunodeficiency  
3 virus syndrome;

4 (d) Identification and investigation of, responding to, and reporting bias-related  
5 crime, victimization, or intimidation that is a result of or reasonably related to  
6 race, color, religion, sex, or national origin;

7 (e) The characteristics and dynamics of human trafficking, state and federal laws  
8 relating to human trafficking, the investigation of cases involving human  
9 trafficking, including but not limited to screening for human trafficking, and  
10 resources for assistance to the victims of human trafficking;

11 (f) Evidence-based training on juvenile justice research relating to  
12 effectiveness of juvenile justice interventions, impacts of out-of-home  
13 placement, alternatives to incarceration, use of graduated sanctions, case  
14 planning, administration of a validated risk and needs assessment, and  
15 training to address domestic violence, trauma, implicit bias, cultural  
16 competence, and family engagement; and

17 ~~(g)~~~~(f)~~ Beginning January 1, 2017, the council shall require that a law  
18 enforcement basic training course include at least eight (8) hours of training  
19 relevant to sexual assault.

20 (2) (a) The council shall develop and approve mandatory professional development  
21 training courses to be presented to all certified peace officers. A mandatory  
22 professional development training course shall be first taken by a certified  
23 peace officer in the training year following its approval by the council and  
24 biennially thereafter. A certified peace officer shall be required to take these  
25 courses no more than two (2) times in eight (8) years.

26 (b) Beginning January 1, 2011, the council shall require that one and one-half  
27 (1.5) hours of professional development covering the recognition and

1 prevention of pediatric abusive head trauma be included in the curriculum of  
2 all mandatory professional development training courses such that all officers  
3 shall receive this training at least once by December 31, 2013. The one and  
4 one-half (1.5) hours required under this section shall be included in the current  
5 number of required continuing education hours.

6 (c) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual  
7 assault investigation training course. By January 1, 2019, agencies shall have  
8 one (1) or more officers trained in this curriculum, as follows:

- 9 1. Agencies with five (5) or fewer officers shall have at least one (1) officer  
10 trained in sexual assault investigation;
- 11 2. Agencies with more than five (5) officers but fewer than thirty (30)  
12 officers shall have at least two (2) officers trained in sexual assault  
13 investigation; and
- 14 3. Agencies with thirty (30) or more officers shall have at least four (4)  
15 officers trained in sexual assault investigation.

16 (3) The Justice and Public Safety Cabinet shall provide training on the subjects of  
17 domestic violence and abuse and may do so utilizing currently available technology.  
18 All certified peace officers shall be required to complete this training at least once  
19 every two (2) years.

20 (4) The council shall promulgate administrative regulations in accordance with KRS  
21 Chapter 13A to establish mandatory basic training and professional development  
22 training courses.

23 (5) The council shall make an annual report by December 31 each year to the  
24 Legislative Research Commission that details the subjects and content of mandatory  
25 professional development training courses established during the past year and the  
26 subjects under consideration for future mandatory training.

27 ➔Section 13. KRS 17.110 is amended to read as follows:

1 (1) All city and county law enforcement agencies shall cause a photograph, a set of  
2 fingerprints, and a general description report of all persons arrested on a felony  
3 charge to be made and two (2) copies of each item forwarded within thirty (30) days  
4 after the arrest to the Department of Kentucky State Police of the Justice and Public  
5 Safety Cabinet, in accordance with administrative regulations of the cabinet. Unless  
6 the charges are dismissed or withdrawn at that appearance, the judge shall require  
7 any adult person appearing before any Circuit Court in the Commonwealth on a  
8 felony charge, who has not been arrested, to, if this has not already been done in the  
9 case before the court, be photographed and fingerprinted, and have a general  
10 description made following his arraignment. Agencies specified above shall furnish  
11 any other information involving offenses or in their possession relative to law  
12 enforcement upon request by the cabinet.

13 (2) Each city and county law enforcement agency shall advise the Department of  
14 Kentucky State Police of the disposition made of all cases wherein a person has  
15 been charged with an offense.

16 **(3) Each city and county law enforcement agency and the department shall advise**  
17 **the appropriate school district when a child is taken into custody or a complaint**  
18 **is filed against a child for acts committed on school property or at school**  
19 **functions.**

20 ➔Section 14. KRS 605.130 is amended to read as follows:

21 In addition to the other duties, functions, and responsibilities imposed by law, the cabinet,  
22 through its authorized representatives, shall have general supervision and management of  
23 all matters contained in KRS 620.150 and 620.170 and shall, wherever possible:

- 24 (1) Locate and plan for all children who are dependent, neglected, or abused;  
25 (2) Cooperate with and assist the courts of the various counties;  
26 (3) Assist Circuit Courts through services to children whenever requested by the court.

27 The cabinet may charge a reasonable fee for such services to be taxed as costs by

1 the court;

2 (4) Assess all referrals received from a court-designated worker, pursuant to direction  
3 from the family accountability, intervention, and response team, to determine  
4 whether a basis exists to file a dependency, neglect, or abuse petition;

5 (5) Track and report to the oversight council created in KRS 15A.063 the number of  
6 referrals received, the number of investigations made upon those referrals, and the  
7 number and type of petitions filed in response, including a breakdown by age,  
8 race, gender, presence of a disability, and whether the child's father is part of the  
9 household;

10 (6) Identify all youth who have status offense charges and are committed or probated to  
11 the cabinet and report the number of committed and probated youth to the oversight  
12 council created in KRS 15A.063, including a breakdown by age, race, gender,  
13 presence of a disability, and whether the child's father is part of the household;  
14 and

15 (7) Perform such other services as may be deemed necessary for the protection of  
16 children.

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

18 (1) Each person or organization operating a facility shall register with the Department  
19 of Juvenile Justice and shall comply with the regulations issued pursuant to KRS  
20 15A.210.

21 (2) Each organization operating or seeking to operate or expand a facility shall:

22 (a) Apply to the Department of Juvenile Justice in a period of time set by  
23 administrative regulation prior to the scheduled opening of the facility;

24 (b) Permit inspection of the facility by the Department of Juvenile Justice not less  
25 than thirty (30) days prior to the scheduled opening of the facility; ~~and~~

26 (c) Supply to the Department of Juvenile Justice not less than thirty (30) days  
27 prior to the scheduled opening of the facility all data, plans, and other

1 materials required by the Department of Juvenile Justice; and  
 2 (d) Report to the Department of Juvenile Justice data on children under  
 3 supervision, which shall include monthly population totals and a monthly  
 4 breakdown by age, race, gender, presence of a disability, and whether the  
 5 child's father is part of the household. A child shall be identified as having  
 6 a disability if the child has been referred for evaluation or admitted to  
 7 special education in accordance with 707 KAR 1:300 or is eligible for  
 8 accommodations under Section 504 of the Rehabilitation Act of 1973 or the  
 9 Americans with Disabilities Act. Race shall be reported using current  
 10 categories which satisfy the standards established by the United States  
 11 Office of Management and Budget.

12 (3) No facility shall operate except with the approval of the Department of Juvenile  
 13 Justice.

14 (4) The Department of Juvenile Justice shall have the authority, upon thirty (30) days'  
 15 written notice to the county judge/executive and jailer of any county that operates a  
 16 juvenile detention facility and is located within an area served by a state-operated  
 17 juvenile detention facility, to decertify any juvenile detention facility and that  
 18 facility shall, at the expiration of the thirty (30) day period, cease detaining  
 19 juveniles.

20 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 194A IS CREATED  
 21 TO READ AS FOLLOWS:

22 **The Cabinet for Health and Family Services shall:**

23 (1) By the end of each quarter of the calendar year, report to the Criminal Justice  
 24 Statistical Analysis Center created pursuant to KRS 15.280 data on children  
 25 receiving services, which shall include monthly totals of children with mental  
 26 illness or developmental or intellectual disabilities served and a monthly  
 27 breakdown by age, race, gender, presence of a disability, whether the child's

1 *father is part of the household, and type of services. A child shall be identified as*  
 2 *having a disability if the child has been referred for evaluation or admitted to*  
 3 *special education in accordance with 707 KAR 1:300 or is eligible for*  
 4 *accommodations under Section 504 of the Rehabilitation Act of 1973 or the*  
 5 *Americans with Disabilities Act. Race shall be reported using current categories*  
 6 *which satisfy the standards established by the United States Office of*  
 7 *Management and Budget;*

8 *(2) By January 1, 2021, develop and submit to the Juvenile Justice Advisory Board*  
 9 *created pursuant to KRS 15A.065 and to the oversight council created in KRS*  
 10 *15A.063 a three (3) year plan to address disproportionate minority representation*  
 11 *among children receiving services from the department. By January 1 of each*  
 12 *year thereafter, the Cabinet for Health and Family Services shall submit an*  
 13 *updated plan and a report describing its progress in implementing the plan; and*

14 *(3) Develop and implement professional development programs for staff who interact*  
 15 *with or who are responsible for the treatment of children with mental health or*  
 16 *developmental and intellectual disabilities, that include training on juvenile*  
 17 *justice research relating to effectiveness of juvenile justice interventions, impacts*  
 18 *of out-of-home placement, alternatives to incarceration, use of graduated*  
 19 *sanctions, case planning, administration of a validated risk and needs*  
 20 *assessment, and training to address specific issues such as domestic violence,*  
 21 *trauma, implicit bias, cultural competence, and family engagement.*

22 ➔Section 17. KRS 15A.305 is amended to read as follows:

23 (1) The Department of Juvenile Justice shall, with available funds, develop and  
 24 administer a statewide detention program and, as each regional facility is  
 25 constructed and ready for occupancy, shall, within appropriation limitations,  
 26 provide for:

27 (a) The operation of preadjudication detention facilities for children charged with

- 1 public offenses; and
- 2 (b) The operation of postadjudication detention facilities for children adjudicated  
3 delinquent or found guilty of public offenses.
- 4 (2) In each region in which the Department of Juvenile Justice operates or contracts for  
5 the operation of a detention facility, the department shall, within appropriation  
6 limitations, develop and administer a program for alternatives to secure detention  
7 that shall provide for:
- 8 (a) The operation of or contracting for the operation of preadjudication  
9 alternatives to secure detention and follow-up programs for juveniles who are  
10 before the court or who enter ~~pretrial~~ diversion agreements or informal  
11 adjustment programs; and
- 12 (b) The operation of or contracting for the operation of postadjudication  
13 alternatives to secure detention and follow-up programs, including but not  
14 limited to community-based programs, mentoring, counseling, and other  
15 programs designed to limit the unnecessary use of secure detention and ensure  
16 public safety.
- 17 (3) The department shall develop and implement a system to immediately notify the  
18 Cabinet for Health and Family Services when a status offender or child alleged to be  
19 a status offender has been detained for the alleged violation of a valid court order.
- 20 (4) The department may, except as provided in KRS 635.060, charge counties,  
21 consolidated local governments, and urban-county governments a per diem not to  
22 exceed ninety-four dollars (\$94) for lodging juveniles in state-owned or contracted  
23 facilities.
- 24 (5) Detention rates charged by contracting detention facilities shall not exceed the rate  
25 in effect on July 1, 1997, subject to increases approved by the department.
- 26 (6) No juvenile detention facility, as defined in KRS 15A.200, shall be taken over,  
27 purchased, or leased by the Commonwealth without prior approval of the fiscal

1 court upon consultation with the jailer in the county where the facility is located.  
2 The county, upon consultation with the jailer, may enter into contracts with the  
3 Commonwealth for the holding, detention, and transportation of juveniles.

4 ➔Section 18. KRS 15A.0652 is amended to read as follows:

5 The Department of Juvenile Justice shall promulgate administrative regulations that shall  
6 include:

- 7 (1) Development or adoption of a validated risk and needs assessment that:
- 8 (a) Considers factors such as the severity of the current offense, the child's  
9 previous public offense record, and the child's assessed criminal risk factors;
- 10 (b) Is administered for all children adjudicated on a public offense prior to  
11 disposition and at regular intervals thereafter to determine risk levels and to  
12 identify intervention needs; and
- 13 (c) Is implemented based on policies and practices for utilization of the  
14 assessment instrument to objectively guide placement and the length and type  
15 of treatment for each child committed to the department or probated to the  
16 department or other entity;
- 17 (2) The provision of treatment for committed and probated children in accordance with  
18 evidence-based practices, including, at a minimum:
- 19 (a) Development of a case plan for each child committed to the department or  
20 probated to the department that targets the risk factors identified in the  
21 assessment, is responsive to individual characteristics, involves the family as  
22 appropriate, provides supervision or monitoring of children according to their  
23 case plan, and establishes a treatment plan in accordance with subsection (3)  
24 of this section; and
- 25 (b) Development and implementation of a graduated sanctions protocol of swift,  
26 certain, proportionate, and graduated sanctions that a probation officer or  
27 employee of the department shall apply in response to a child's violations of

- 1 the terms or conditions of probation. The graduated sanctions protocol shall:
- 2 1. Include a continuum of sanctions that take into account factors such as
- 3 the severity of the current violation, the child's previous criminal record,
- 4 the number and severity of any previous probation violations, the child's
- 5 assessed risk level, and the extent to which graduated sanctions were
- 6 imposed for previous violations. The system shall also define positive
- 7 reinforcements that the probated child may receive for compliance with
- 8 his or her terms or conditions of probation. A sanction of up to thirty
- 9 (30) days' out-of-home placement may be imposed for a violation of the
- 10 terms of probation. A child shall not be committed or recommitted to the
- 11 Department of Juvenile Justice for the violation of the conditions of
- 12 probation;
- 13 2. Provide that judicial review for a probated youth, or an administrative
- 14 hearing for a committed youth, shall not be necessary to impose
- 15 graduated sanctions less than out-of-home placement; and
- 16 3. Require that less-restrictive graduated sanctions be utilized prior to
- 17 requesting judicial review unless there is clear and convincing evidence
- 18 that there are no graduated sanctions available that are appropriate for
- 19 the child and the child is an immediate threat to himself, herself, or
- 20 others;
- 21 (3) Development and implementation of treatment plans for committed and probated
- 22 children that:
- 23 (a) Take into consideration the severity of the current offense and the child's
- 24 assessed risk and needs as identified by a validated risk and needs assessment;
- 25 (b) Involve the family in the treatment plan as appropriate;
- 26 (c) Allow a child to complete treatment in the community if resources are
- 27 available rather than in a secure or nonsecure facility; and

- 1 (d) For committed children may include:
- 2 1. A maximum of four (4) months of out-of-home placement if the child
- 3 was adjudicated for an offense that would be a misdemeanor if
- 4 committed by an adult, other than a violation of KRS Chapter 510 or an
- 5 offense involving the use of a firearm~~[deadly weapon]~~;
- 6 2. A maximum of eight (8) months of out-of-home placement if the child
- 7 was adjudicated for an offense that would be a Class D felony if
- 8 committed by an adult, other than a violation of KRS Chapter 510 or an
- 9 offense involving the use of a firearm~~[deadly weapon]~~; and
- 10 3. A provision that if a child has reached the maximum time allowed in
- 11 out-of-home placement, as specified in subparagraphs 1. and 2. of this
- 12 paragraph and further out-of-home placement is determined to be
- 13 necessary for completion of treatment, the child may be held for an
- 14 additional period only upon approval of the Administrative Transfer
- 15 Request Committee, or another appropriate entity within the department
- 16 as designated by the commissioner of the department after review of the
- 17 facts and circumstances warranting the need for continued out-of-home
- 18 placement. If the commissioner approves continued out-of-home
- 19 placement, the maximum time the placement may be continued is the
- 20 maximum originally allowed under subparagraphs 1. and 2. of this
- 21 paragraph and the total period of commitment shall not exceed that
- 22 permitted under KRS 635.060;
- 23 (4) Development and implementation of professional development programs for
- 24 department staff who interact with or who are responsible for the treatment,
- 25 supervision, or placement of children, that includes training on juvenile justice
- 26 research relating to effectiveness of juvenile justice interventions, impacts of out-of-
- 27 home placement, alternatives to incarceration, use of graduated sanctions, case

1 planning, administration of a validated risk and needs assessment, and training to  
2 address specific issues such as domestic violence, trauma, *implicit bias, cultural*  
3 *competence*, and family engagement;

4 (5) Development of procedures for measuring the outcomes of each treatment and  
5 intervention program and practice to demonstrate that the program or practice has a  
6 documented evidence base and has been evaluated for effectiveness in reducing  
7 recidivism for the children it serves, including:

8 (a) A process for reviewing the objective criteria for evidence-based programs  
9 and practices established by the agency providing the program;

10 (b) A process for auditing the effectiveness of the programs; and

11 (c) An opportunity for programs that do not meet the criteria based on the audit  
12 results to develop and implement a corrective action plan within one hundred  
13 eighty (180) days of the audit;

14 (6) Development of procedures to track juvenile recidivism, which shall include  
15 adjudication of a new public offense or conviction of a crime within three (3) years  
16 of release from an out-of-home placement or release from commitment, and  
17 collaboration with the Department of Corrections and the Administrative Office of  
18 the Courts to obtain adult conviction and incarceration information to enable  
19 collection of recidivism data;

20 (7) Development of procedures to track the pre-adjudication and post-adjudication  
21 admissions beginning no later than August 1, 2014; and

22 (8) Development of procedures to ensure maximum utilization of available federal  
23 funding resources which may be available to the agency.

24 As used in this section, "evidence-based practices," "graduated sanction," "out-of-home  
25 placement," and "risk and needs assessment" have the same meanings as in KRS 600.020.

26 ➔Section 19. KRS 610.030 is amended to read as follows:

27 Except as otherwise provided in KRS Chapters 600 to 645:

- 1 (1) If any person files a complaint alleging that a child, except a child alleged to be  
2 neglected, abused, dependent or mentally ill who is subject to the jurisdiction of the  
3 court, may be within the purview of KRS Chapters 600 to 645, the court-designated  
4 worker shall make a preliminary determination as to whether the complaint is  
5 complete. In any case where the court-designated worker finds that the complaint is  
6 incomplete, the court-designated worker shall return the complaint without delay to  
7 the person or agency originating the complaint or having knowledge of the facts, or  
8 to the appropriate law enforcement agency having investigative jurisdiction of the  
9 offense, and request additional information in order to complete the complaint. The  
10 complainant shall promptly furnish the additional information requested. **If the**  
11 **child is less than twelve (12) years of age, the court-designated worker shall take**  
12 **no action on the complaint and shall refer the child to the family accountability,**  
13 **intervention, and response team.**<sup>[;]</sup>
- 14 (2) (a) Upon receipt of a complaint which appears to be complete and which alleges  
15 that a child has committed a public offense, the court-designated worker shall  
16 refer the complaint to the county attorney for review pursuant to KRS  
17 635.010.
- 18 (b) If after review the county attorney elects to proceed, the court-designated  
19 worker shall conduct a preliminary intake inquiry to recommend whether the  
20 interests of the child or the public require that further action be taken or  
21 whether, in the interest of justice, the complaint can be resolved informally  
22 without the filing of a petition;
- 23 (3) Upon receipt of a complaint that appears to be complete and that alleges that the  
24 child has committed a status offense, the court-designated worker shall conduct a  
25 preliminary intake inquiry to determine whether the interests of the child or the  
26 public require that further action be taken **pursuant to subsection (6)(a) of this**  
27 **section;**

- 1 (4) Prior to conducting a preliminary intake inquiry, the court-designated worker shall  
2 notify the child and the child's parent, guardian, or other person exercising custodial  
3 control or supervision of the child in writing:
- 4 (a) Of their opportunity to be present at the preliminary intake inquiry;
- 5 (b) That they may have counsel present during the preliminary intake inquiry as  
6 well as the formal conference thereafter;
- 7 (c) 1. That all information supplied by the child to a court-designated worker  
8 during any process prior to the filing of the petition shall be deemed  
9 confidential and shall not be subject to subpoena or to disclosure  
10 without the written consent of the child.
- 11 2. Information may be shared between treatment providers, the court-  
12 designated worker, and the family accountability, intervention, and  
13 response team to enable the court-designated worker to facilitate  
14 services and facilitate compliance with the diversion agreement; and
- 15 (d) That the child has the right to deny the allegation and demand a formal court  
16 hearing;
- 17 (5) The preliminary intake inquiry shall include the administration of an evidence-based  
18 screening tool and, if appropriate and available, a validated risk and needs  
19 assessment, in order to identify whether the child and his or her family are in need  
20 of services and the level of intervention needed;
- 21 (6) Upon the completion of the preliminary intake inquiry, the court-designated worker  
22 may:
- 23 (a) If the complaint alleges a status offense, determine that no further action be  
24 taken subject to review by the family accountability, intervention, and  
25 response team;
- 26 (b) If the complaint alleges a public offense, refer the complaint to the county  
27 attorney;

- 1 (c) Refer a public offense complaint for informal adjustment; or
- 2 (d) Based upon the results of the preliminary intake inquiry, other information
- 3 obtained, and a determination that the interests of the child and the public
- 4 would be better served, and with the written approval of the county attorney
- 5 for a public offense complaint, if necessary, conduct a formal conference and
- 6 enter into a diversion agreement;
- 7 (7) Upon receiving written approval of the county attorney, if necessary, to divert a
- 8 public offense complaint, and prior to conducting a formal conference, the court-
- 9 designated worker shall advise in writing the complainant, the victim if any, and the
- 10 law enforcement agency having investigative jurisdiction of the offense:
- 11 (a) Of the recommendation and the reasons therefor and that the complainant,
- 12 victim, or law enforcement agency may submit within ten (10) days from
- 13 receipt of such notice a complaint to the county attorney for special review; or
- 14 (b) In the case of a misdemeanor diverted pursuant to KRS 635.010(4), of the fact
- 15 that the child was statutorily entitled to divert the case;
- 16 (8) A formal conference shall include the child and his or her parent, guardian, or other
- 17 person exercising custodial control or supervision. The formal conference shall be
- 18 used to:
- 19 (a) Present information obtained at the preliminary intake inquiry; and
- 20 (b) Develop a diversion agreement that shall require that the child regularly attend
- 21 school, shall not exceed six (6) months in duration, and may include:
- 22 1. Referral of the child, and family if appropriate, to a public or private
- 23 entity or person for the provision of identified services to address the
- 24 complaint or assessed needs;
- 25 2. Referral of the child, and family if appropriate, to a community service
- 26 program within the limitations provided under KRS 635.080(2);
- 27 3. Restitution, limited to the actual pecuniary loss suffered by the victim, if

- 1 the child has the means or ability to make restitution;
- 2 4. Notification that the court-designated worker may apply graduated
- 3 sanctions for failure to comply with the diversion agreement;
- 4 5. Any other program or effort which reasonably benefits the community
- 5 and the child; and
- 6 6. A plan for monitoring the child's progress and completion of the
- 7 agreement;
- 8 (9) (a) If a child successfully completes a diversion agreement, the underlying
- 9 complaint shall be dismissed and further action related to that complaint shall
- 10 be prohibited.
- 11 (b) If a child fails to appear for a preliminary intake inquiry, declines to enter into
- 12 a diversion agreement, or fails to complete a diversion agreement, then:
- 13 1. For a public offense complaint, the matter shall be referred to the county
- 14 attorney for formal court action and, if a petition is filed, the child may
- 15 request that the court dismiss the complaint based upon his or her
- 16 substantial compliance with the terms of *the* diversion *agreement*; and
- 17 2. For a status offense complaint, the court-designated worker shall refer
- 18 the matter to the family accountability, intervention, and response team
- 19 for review and further action;
- 20 (10) If a complaint is referred to the court, the complaint and findings of the court-
- 21 designated worker's preliminary intake inquiry shall be submitted to the court for
- 22 the court to determine whether process should issue; and
- 23 (11) At any stage in the proceedings described in this section, the court or the county
- 24 attorney may review any decision of the court-designated worker. The court upon its
- 25 own motion or upon written request of the county attorney may refer any complaint
- 26 for a formal hearing.
- 27 ➔Section 20. KRS 605.035 is amended to read as follows:

- 1 (1) There is hereby created in each judicial district a family accountability, intervention,  
2 and response team that shall develop enhanced case management plans and  
3 opportunities for services for children referred to the team. The family  
4 accountability, intervention, and response team shall consist of not more than  
5 fifteen (15) persons.
- 6 (2) The membership of the team shall include the following representatives as  
7 appointed by their agencies or organizations:
- 8 (a) A court-designated worker in that judicial circuit or district;
  - 9 (b) One (1) or more members, one (1) of whom shall be a representative of the  
10 community mental health center, of the regional interagency council specified  
11 in KRS 200.509(1)(a) to (d) and (g), or corresponding members of the local  
12 interagency council if one exists;
  - 13 (c) A representative from the cabinet knowledgeable about services available  
14 through the cabinet and authorized to facilitate access to services;
  - 15 (d) A representative from the office of a county attorney within the judicial  
16 district;
  - 17 (e) A representative from the Department of Public Advocacy;
  - 18 (f) A representative from a local public school within the judicial district;
  - 19 (g) A representative of law enforcement; and
  - 20 (h) Other persons interested in juvenile justice issues, as identified by the family  
21 accountability, intervention, and response team, who are necessary for a  
22 complete representation of resources within each judicial circuit or district.
- 23 (3) A court-designated worker from within the judicial circuit or district shall lead the  
24 team and be responsible for convening and staffing the team.
- 25 (4) The team shall adopt a case management approach and process for reviewing:
- 26 (a) Referrals from the court-designated worker involving cases in which a child  
27 has failed to appear for a preliminary intake inquiry, declined to enter into a

1 diversion agreement, or failed to complete the terms of the agreement, or if  
 2 the child is less than twelve (12) years of age; and

3 (b) Status offense cases if the court-designated worker, after reviewing the  
 4 complaint, has determined that no further action is necessary.

5 (5) After reviewing the actions taken by the court-designated worker, including  
 6 referrals made for the child and his or her family, efforts to address barriers to  
 7 successful completion, and whether other appropriate services are available to  
 8 address the needs of the child and his or her family, the team may:

9 (a) Refer the case back to the court-designated worker to take further action as  
 10 recommended by the team;

11 (b) For a child under twelve (12) years of age, refer the case to the cabinet for  
 12 assessment and services; or

13 (c)~~(b)~~ Advise the court-designated worker to refer the case to the county  
 14 attorney if the team has no further recommendations to offer.

15 ➔Section 21. KRS 610.105 is amended to read as follows:

16 (1) Upon the court's motion or the motion of any party, following notice to the county  
 17 attorney, an informal adjustment may be made at any time during the proceedings  
 18 and with the victim and with those persons specified in KRS 610.070 having prior  
 19 notification of the motion.

20 (2) An informal adjustment does not require adjudication of the case. If an adjudication  
 21 has occurred, the court shall dismiss the case following successful completion under  
 22 subsection (3) of this section.

23 (3) If the court orders an informal adjustment, the order may include any of the  
 24 following:

25 (a) Referral of the case to a program designed to hold the child accountable, to  
 26 secure services as appropriate for the best interests of the child, and to  
 27 provide redress for the child's behavior.~~[diversion, but,]~~ If the child does not

1           successfully complete the terms of the program~~[diversion]~~, the case shall not  
2           be dismissed as a result ~~[of the diversion]~~ but shall be returned to court; or

3           (b) Placement of the child on community supervision or monitoring by the court  
4           under the informal adjustment with additional conditions as determined  
5           appropriate by the court for a period not to exceed six (6) months.

6           ➔Section 22. KRS 635.010 is amended to read as follows:

7           (1) The county attorney shall cause a review to be made of each complaint alleging that  
8           a public offense has been committed. The purpose of this review shall be to  
9           determine from the available evidence whether there are reasonable grounds to  
10          believe that the alleged facts would constitute a public offense. The county attorney  
11          may elect not to proceed with the complaint, regardless of whether reasonable  
12          grounds exist, and dismiss the complaint.

13          (2) The county attorney, upon receipt of a request for special review, shall consider the  
14          facts presented by the complainant and by the court-designated worker who made  
15          the recommendation that no petition be filed, before the county attorney makes a  
16          final decision as to whether a public offense petition shall ~~[or shall not]~~ be filed.

17          (3) In all cases in which the child is alleged to have committed a public offense and is  
18          not detained, the court-designated worker shall submit his written recommendation  
19          to the county attorney or designee within twenty (20) days, exclusive of weekends  
20          and holidays, from the date the child was taken into custody or the complaint was  
21          filed. In cases where the child is detained, the court-designated worker's report shall  
22          be submitted within seventy-two (72) hours of the time the child is ordered  
23          detained.

24          (4) The county attorney shall~~[may]~~ not file a petition if the complaint is a misdemeanor  
25          or a Class D felony and the child who is the subject of the diversion agreement has  
26          no prior adjudications and no prior diversions. *A youth who is detained pursuant to*  
27          *Section 44 of this Act shall be offered a diversion agreement if the complaint is a*

1        **misdemeanor or a Class D felony and the child who is the subject of the diversion**  
 2        **agreement has no prior adjudications and no prior diversions.**

3        (5) If a public offense petition is filed, it shall be verified by information and belief and  
 4        contain the information listed in KRS 610.020.

5        **(6) If a child who is before the court is eligible for mandatory diversion pursuant to**  
 6        **subsection (4) of this section, the court shall dismiss the petition and return the**  
 7        **complaint to the court-designated worker for diversion.**

8        ➔Section 23. KRS 635.060 is amended to read as follows:

9        If in its decree the juvenile court finds that the child comes within the purview of this  
 10        chapter, the court, at the dispositional hearing, may impose any combination of the  
 11        following, except that the court shall, if a validated risk and needs assessment tool is  
 12        available, consider the validated risk and needs assessment submitted to the court and  
 13        parties by the Department of Juvenile Justice or other agency before imposing any  
 14        disposition:

15        (1) Order the child or his parents, guardian, or person exercising custodial control to  
 16        make restitution or reparation to any injured person to the extent, in the sum and  
 17        upon the conditions as the court determines. However, no parent, guardian, or  
 18        person exercising custodial control shall be ordered to make restitution or reparation  
 19        unless the court has provided notice of the hearing, provided opportunity to be  
 20        heard, and made a finding that the person's failure to exercise reasonable control or  
 21        supervision was a substantial factor in the child's delinquency;

22        (2) (a) Place the child:

23                1. Under parental supervision in the child's own home or in a suitable  
 24                home or boarding home, upon the conditions that the court shall  
 25                determine, or

26                2. On probation under conditions that the court shall determine.

27        (b) 1. At the time the child is placed on probation, the court shall explain to

1 the child the sanctions which may be imposed if the court's conditions  
2 are violated, and shall include notice of those sanctions as part of its  
3 written order of probation. A child placed on probation shall be subject  
4 to the visitation and supervision of a probation officer or an employee of  
5 the Department of Juvenile Justice.

6 2. The conditions of probation shall include authorization for the use of  
7 graduated sanctions prior to a court review for the imposition of a term  
8 of detention. If the court has previously imposed graduated sanctions for  
9 a violation of conditions of supervision by a child monitored by the  
10 court, or makes a finding that the graduated sanctions have previously  
11 been imposed for a child on probation, then the court may impose a  
12 sanction of up to thirty (30) days' detention for a violation of the  
13 conditions of supervision or probation. A court may not impose  
14 detention prior to use of graduated sanctions unless there is clear and  
15 convincing evidence that there are no graduated sanctions available that  
16 are appropriate for the child and the child is an immediate threat to  
17 himself or others. Except where commitment has been probated  
18 pursuant to subsection (5) of this section, a child may not be committed  
19 or recommitted to the Department of Juvenile Justice for a violation of a  
20 condition of probation.

21 (c) A child placed on probation or supervision with court monitoring shall remain  
22 subject to the jurisdiction of the court as follows, except that if a person is  
23 placed on probation after the person reaches the age of seventeen (17) years  
24 and six (6) months, the probation shall be for a period not to exceed one (1)  
25 year:

26 1. If the child was adjudicated for an offense that would be a violation if  
27 committed by an adult, the period of probation or supervision shall not

- 1           exceed thirty (30) days, except that the court may order up to three (3)  
2           months of supervision if the court-ordered treatment includes a program  
3           that requires longer than thirty (30) days to complete;
- 4           2. If the child was adjudicated for an offense that would be a misdemeanor  
5           if committed by an adult, other than an offense for which a child has  
6           been declared a juvenile sex offender under KRS 635.510 or an offense  
7           involving the use of a firearm~~[deadly weapon]~~, the period of probation  
8           or supervision shall not exceed six (6) months, except that the court may  
9           order up to twelve (12) months of supervision if the court-ordered  
10          substance abuse or mental health treatment includes a program that  
11          requires longer than six (6) months to complete;
- 12          3. If the child was adjudicated for an offense that would be a Class D  
13          felony if committed by an adult, other than an offense for which a child  
14          has been declared a juvenile sex offender under KRS 635.510 or an  
15          offense involving the use of a firearm~~[deadly weapon]~~, the period of  
16          probation or supervision shall not exceed twelve (12) months; or
- 17          4. If the child was adjudicated for an offense that would be a felony offense  
18          if committed by an adult, other than a Class D felony offense, or for an  
19          offense involving the use of a firearm~~[deadly weapon]~~, or for an offense  
20          in which the child has not been declared a sexual offender pursuant to  
21          KRS 635.510, the child may be placed on probation up to age eighteen  
22          (18);
- 23          (3) (a) If the child was adjudicated for an offense other than an offense that would be  
24          a violation if committed by an adult, order the child confined in an approved  
25          secure detention facility or detention program, as authorized by KRS Chapter  
26          15A, as follows:
- 27          1. If the child is fourteen (14) years of age but less than sixteen (16) years

1 of age, the child may be confined for a period of time not to exceed  
2 forty-five (45) days; or

3 2. If the child is sixteen (16) years of age or older, the child may be  
4 confined for a period of time not to exceed ninety (90) days.

5 (b) The Department of Juvenile Justice shall pay for the confinement of children  
6 confined pursuant to this subsection in accordance with the statewide  
7 detention plan and administrative regulations implementing the plan;

8 (4) (a) Order the child to be committed or recommitted to the custody of the  
9 Department of Juvenile Justice, grant guardianship to a child-caring facility or  
10 a child-placing agency authorized to care for the child, or place the child under  
11 the custody and supervision of a suitable person if:

12 1. The child was adjudicated for an offense that would be a misdemeanor  
13 or Class D felony if committed by an adult and the child has at least  
14 three (3) prior separate adjudications which do not arise from the same  
15 course of conduct, excluding prior adjudications of offenses designated  
16 as a violation, or at least four (4) prior separate adjudications of  
17 violations, which do not arise from the same course of conduct; or

18 2. The child was adjudicated for an offense involving the use of a  
19 firearm~~[deadly weapon]~~, an offense in which the child has been  
20 declared a juvenile sexual offender under KRS 635.510, or an offense  
21 that would be a felony offense if committed by an adult, other than a  
22 Class D felony.

23 (b) The commitment shall be for the following term, subject to KRS 635.070 and  
24 the power of the court to terminate the order and discharge the child prior  
25 thereto:

26 1. If the child was adjudicated for an offense that would be a misdemeanor  
27 if committed by an adult, other than an offense for which a child has

- 1           been declared a juvenile sex offender under KRS 635.510 or an offense  
2 involving the use of a firearm~~[deadly weapon]~~, the child may be  
3 committed for a period not to exceed twelve (12) months, including all  
4 time spent in the treatment plan established pursuant to KRS 15A.0652;
- 5           2. If the child was adjudicated for an offense that would be a Class D  
6 felony if committed by an adult, other than an offense for which a child  
7 has been declared a juvenile sex offender under KRS 635.510 or an  
8 offense involving the use of a firearm~~[deadly weapon]~~, the child may be  
9 committed for a period not to exceed eighteen (18) months, including all  
10 time spent in the treatment plan established pursuant to KRS 15A.0652;
- 11           3. If the child was adjudicated for an offense that would be a felony offense  
12 if committed by an adult, other than a Class D felony offense, or an  
13 offense involving the use of a firearm~~[deadly weapon]~~, the child may be  
14 committed up to age eighteen (18);
- 15           4. If the child was adjudicated for an offense that results in the child being  
16 declared a juvenile sexual offender, the commitment shall be as  
17 provided in KRS 635.515;
- 18           5. The court, in its discretion, upon motion by the child and with the  
19 concurrence of the Department of Juvenile Justice, may authorize an  
20 extension of commitment up to age twenty-one (21) to permit the  
21 Department of Juvenile Justice to assist the child in establishing  
22 independent living arrangements; and
- 23           6. If a child is committed after the child reaches the age of seventeen (17)  
24 years and six (6) months, and except as provided in subparagraph 4. of  
25 this paragraph, the commitment shall be for a period not to exceed one  
26 (1) year.
- 27           (c) The Department of Juvenile Justice shall:

- 1           1.    Accept physical custody of a child who is detained in an approved  
2           secure juvenile detention facility in accordance with KRS 15A.200 to  
3           15A.240 at the time the child is committed or recommitted to the  
4           custody of the Department of Juvenile Justice. The Department of  
5           Juvenile Justice shall remove the child from the approved secure  
6           juvenile detention facility and secure appropriate placement as soon as  
7           possible but not to exceed thirty-five (35) days of the time of  
8           commitment or recommitment; and
- 9           2.    Pay for the cost of detention from the date of commitment or  
10          recommitment, on the current charge, until the child is removed from the  
11          detention facility and placed.
- 12          (d)   All orders of commitment may include advisory recommendations the court  
13          may deem proper in the best interests of the child and of the public;~~[-or-]~~
- 14   (5)   (a)   The court may probate or suspend a commitment ordered pursuant to  
15          subsection (4) of this section, except that if a court probates or suspends a  
16          commitment in conjunction with any other dispositional alternative, that fact  
17          shall be explained to the juvenile and contained in a written order.
- 18          (b)   Any probation or suspension imposed shall not exceed the time limitations  
19          established under subsection (2) of this section.
- 20          (c)   If the child successfully completes the conditions of probation, the court shall  
21          terminate the case.
- 22          (d)   1.    The court may, for violations of the conditions of probation, revoke the  
23                  probation or suspension ordered under this section and order the child  
24                  committed.
- 25                  2.    The period of the commitment shall not exceed the terms established  
26                  under subsection (4) of this section.
- 27                  3.    Any time a child has spent in out-of-home placement as a result of a

1 violation of a condition of probation or suspension under this section  
2 shall be credited toward the period of commitment.

3 4. If a commitment is probated or suspended after a child reaches the age  
4 of seventeen (17) years and six (6) months, the period of the suspension,  
5 and commitment if revoked, shall be for a period not to exceed one (1)  
6 year, but not to exceed age nineteen (19);

7 **(6) The court shall not enter any disposition in a public offender case, except as**  
8 **provided by this section or by KRS 635.090; or**

9 **(7) The court shall not combine dispositional alternatives to exceed the limit**  
10 **established in this section for the most restrictive dispositional alternative utilized.**

11 ➔Section 24. KRS 610.190 is amended to read as follows:

12 (1) The law relating to the persons by whom and the circumstances under which a  
13 person may be arrested for a public offense shall be applicable to children, but the  
14 taking of a child into custody under such law shall not be termed an arrest until the  
15 court has made the decision to try the child in Circuit or District Court as an adult.  
16 The law relating to bail shall not be applicable to children detained in accordance  
17 with this chapter unless the child is subject to being tried in Circuit or District Court  
18 as an adult.

19 (2) ~~[A peace officer may take a child into protective custody if the officer suspects the~~  
20 ~~child to be a runaway.]~~A child taken into protective custody ~~[under this subsection~~  
21 ~~]shall not be considered to have been arrested and may be held at the locations~~  
22 ~~specified in KRS 610.220(1), **while**[after which] the officer **conducts**[shall proceed~~  
23 ~~with] an initial investigation as provided for in KRS 610.200.~~

24 (3) When a child is taken into custody by a person other than a peace officer, such  
25 person shall as soon as possible place the child in the custody of a peace officer.

26 ➔Section 25. KRS 610.200 is amended to read as follows:

27 (1) When a peace officer has taken or received a child into custody on a charge of

1 committing an offense, the officer shall immediately inform the child of his  
2 constitutional rights and afford him the protections required thereunder, notify the  
3 parent, or if the child is committed, the Department of Juvenile Justice or the  
4 cabinet, as appropriate, and if the parent is not available, then a relative, guardian,  
5 or person exercising custodial control or supervision of the child, that the child has  
6 been taken into custody, give an account of specific charges against the child,  
7 including the specific statute alleged to have been violated, and the reasons for  
8 taking the child into custody.

9 (2) (a) When a peace officer has taken or received a child into protective custody ~~on~~  
10 ~~suspicion of being a runaway~~, the officer shall immediately notify:

- 11 1. The child's parent, guardian, or person exercising custodial control or  
12 supervision of the child, if determined;
- 13 2. The cabinet or Department of Juvenile Justice, if appropriate; and
- 14 3. The court-designated worker.

15 (b) If the parent, guardian, or other person exercising custodial control or  
16 supervision is identified and notified, the peace officer may retain custody of  
17 the child for a reasonable period to allow the person notified the opportunity  
18 to arrive at the officer's location and collect the child.

19 (c) If the parent, guardian, or other person exercising custodial control or  
20 supervision cannot be identified or located, the peace officer may retain  
21 custody of the child for a period of time not to exceed two (2) hours to  
22 continue his or her investigation.

23 (d) If, at the conclusion of the peace officer's investigation, the parent, guardian,  
24 or person exercising custodial control or supervision of the child is identified  
25 and notified, the peace officer shall return the child to the custody of that  
26 person and ~~may~~~~shall~~ file a status offense complaint~~case~~ with the court-  
27 designated worker.

- 1 (e) If, at the conclusion of the peace officer's investigation, the parent, guardian,  
2 or person exercising custodial control or supervision of the child cannot be  
3 identified or located, or that person refuses to collect the child, the peace  
4 officer shall file a complaint to initiate detention or placement procedures  
5 pending a detention or custody hearing~~[pursuant to KRS 610.012]~~.
- 6 (3) Unless the child is subject to trial as an adult or unless the nature of the offense or  
7 other circumstances are such as to indicate the necessity of retaining the child in  
8 custody, the officer shall release the child to the custody of his parent or if the child  
9 is committed, the Department of Juvenile Justice or the cabinet, as appropriate; or if  
10 the parent is not available, then a relative, guardian, or person exercising custodial  
11 control or supervision or other responsible person or agency approved by the court  
12 upon the written promise, signed by such person or agency, to bring the child to the  
13 court at a stated time or at such time as the court may order. The written promise,  
14 accompanied by a written report by the officer, shall be submitted forthwith to the  
15 court or court-designated worker and shall detail the reasons for having taken  
16 custody of the child, the release of the child, the person to whom the child was  
17 released, and the reasons for the release.
- 18 (4) (a) If the person fails to produce the child as agreed or upon notice from the  
19 Court as provided in subsection (3) of this section, a summons, warrant, or  
20 custody order may be issued for the apprehension of the person or of the  
21 child,  
22 or both.
- 23 (b) If the person notified to collect a child taken into protective  
24 custody~~[suspected runaway pursuant to subsection (2)(a) of this section]~~ fails  
25 or refuses to collect the child, the peace officer shall notify the county  
26 attorney, who may file a charge of endangering the welfare of a minor, and the  
27 cabinet.

- 1 (5) The release of a child pursuant to this section shall not preclude a peace officer from  
 2 proceeding with a complaint against a child or any other person.
- 3 (6) Unless the child is subject to trial as an adult, if the child is not released, the peace  
 4 officer shall contact the court-designated worker who may:
- 5 (a) Release the child to his parents;
- 6 (b) Release the child to such other persons or organizations as are authorized by  
 7 law;
- 8 (c) Release the child to either of the above subject to stated conditions; or
- 9 (d) Except as provided in subsection (7) of this section, authorize the peace  
 10 officer to retain custody of the child for an additional period not to exceed  
 11 twelve (12) hours during which the peace officer may transport the child to a  
 12 secure juvenile detention facility or a nonsecure facility. If the child is retained  
 13 in custody, the court-designated worker shall give notice to the child's parents  
 14 or person exercising custodial control or supervision of the fact that the child  
 15 is being retained in custody.
- 16 (7) ~~[(a) Except as provided in paragraph (b) of this subsection, ]~~No child ten (10)  
 17 years of age or under shall be taken to or placed in a juvenile detention  
 18 facility.
- 19 ~~[(b) Any child ten (10) years of age or under who has been charged with the  
 20 commission of a capital offense or with an offense designated as a Class A or  
 21 Class B felony may be taken to or placed in a secure juvenile detention facility  
 22 or youth alternative center when there is no available less restrictive  
 23 alternative.]~~
- 24 ➔Section 26. KRS 610.220 is amended to read as follows:
- 25 (1) Except as otherwise provided by statute, if an officer takes or receives a child into  
 26 custody on an allegation of committing a public offense, or into protective custody  
 27 **pursuant to subsection (2) of Section 27 of this Act if the child is charged as an**

1        ~~habitual~~ ~~on being a suspected~~ runaway, the child may be held at a police station,  
2        secure juvenile detention facility, youth alternative center, a nonsecure facility, or,  
3        as necessary, in a hospital or clinic for the following purposes:

- 4        (a) Identification and booking;
- 5        (b) Attempting to notify the parents or person exercising custodial control or  
6        supervision of the child, a relative, guardian, other responsible person, or the  
7        cabinet;
- 8        (c) Photographing;
- 9        (d) Fingerprinting;
- 10       (e) Physical examinations, including examinations for evidence;
- 11       (f) Evidence collection, including scientific tests;
- 12       (g) Records checks;
- 13       (h) Determining whether the child is subject to trial as an adult; and
- 14       (i) Other inquiries of a preliminary nature.

15       (2) A child may be held in custody pursuant to this section for a period of time not to  
16       exceed two (2) hours, unless an extension of time is granted. Permission for an  
17       extension of time may be granted by the court, trial commissioner, or court-  
18       designated worker pursuant to KRS 610.200(6)(d) and the child may be retained in  
19       custody for up to an additional ten (10) hours at a facility of the type listed in  
20       subsection (1) of this section except for an intermittent holding facility for the  
21       period of retention.

22       (3) Any child held in custody pursuant to this section shall be sight and sound separated  
23       from any adult prisoners held in secure custody at the same location, and shall not  
24       be handcuffed to or otherwise securely attached to any stationary object.

25       ➔Section 27. KRS 630.030 is amended to read as follows:

26       Under the provisions of this chapter ~~— a child may be taken into custody by any peace~~  
27       ~~officer~~:

- 1 (1) *A child may be taken into custody by any peace officer* pursuant to an order of the  
2 court for failure to appear before the court for a previous status offense; or  
3 (2) *A child may be taken into protective custody by any peace officer* if there are  
4 reasonable grounds to believe that the child ~~is~~<sup>has been</sup> an habitual runaway from  
5 his parent or person exercising custodial control or supervision of the child.

6 ➔Section 28. KRS 600.020 is amended to read as follows:

7 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- 8 (1) "Abused or neglected child" means a child whose health or welfare is harmed or  
9 threatened with harm when:
- 10 (a) His or her parent, guardian, person in a position of authority or special trust, as  
11 defined in KRS 532.045, or other person exercising custodial control or  
12 supervision of the child:
- 13 1. Inflicts or allows to be inflicted upon the child physical or emotional  
14 injury as defined in this section by other than accidental means;
  - 15 2. Creates or allows to be created a risk of physical or emotional injury as  
16 defined in this section to the child by other than accidental means;
  - 17 3. Engages in a pattern of conduct that renders the parent incapable of  
18 caring for the immediate and ongoing needs of the child including, but  
19 not limited to, parental incapacity due to alcohol and other drug abuse as  
20 defined in KRS 222.005;
  - 21 4. Continuously or repeatedly fails or refuses to provide essential parental  
22 care and protection for the child, considering the age of the child;
  - 23 5. Commits or allows to be committed an act of sexual abuse, sexual  
24 exploitation, or prostitution upon the child;
  - 25 6. Creates or allows to be created a risk that an act of sexual abuse, sexual  
26 exploitation, or prostitution will be committed upon the child;
  - 27 7. Abandons or exploits the child;

- 1           8. Does not provide the child with adequate care, supervision, food,
- 2           clothing, shelter, and education or medical care necessary for the child's
- 3           well-being. A parent or other person exercising custodial control or
- 4           supervision of the child legitimately practicing the person's religious
- 5           beliefs shall not be considered a negligent parent solely because of
- 6           failure to provide specified medical treatment for a child for that reason
- 7           alone. This exception shall not preclude a court from ordering necessary
- 8           medical services for a child; or
- 9           9. Fails to make sufficient progress toward identified goals as set forth in
- 10          the court-approved case plan to allow for the safe return of the child to
- 11          the parent that results in the child remaining committed to the cabinet
- 12          and remaining in foster care for fifteen (15) cumulative months out of
- 13          forty-eight (48) months; or
- 14          (b) A person twenty-one (21) years of age or older commits or allows to be
- 15          committed an act of sexual abuse, sexual exploitation, or prostitution upon a
- 16          child less than sixteen (16) years of age;
- 17          (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
- 18          675(11);
- 19          (3) "Aggravated circumstances" means the existence of one (1) or more of the
- 20          following conditions:
- 21          (a) The parent has not attempted or has not had contact with the child for a period
- 22          of not less than ninety (90) days;
- 23          (b) The parent is incarcerated and will be unavailable to care for the child for a
- 24          period of at least one (1) year from the date of the child's entry into foster care
- 25          and there is no appropriate relative placement available during this period of
- 26          time;
- 27          (c) The parent has sexually abused the child and has refused available treatment;

- 1 (d) The parent has been found by the cabinet to have engaged in abuse of the  
2 child that required removal from the parent's home two (2) or more times in  
3 the past two (2) years; or
- 4 (e) The parent has caused the child serious physical injury;
- 5 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow  
6 the reasonable directives of his or her parents, legal guardian, or person exercising  
7 custodial control or supervision other than a state agency, which behavior results in  
8 danger to the child or others, and which behavior does not constitute behavior that  
9 would warrant the filing of a petition under KRS Chapter 645;
- 10 (5) "Beyond the control of school" means any child who has been found by the court to  
11 have repeatedly violated the lawful regulations for the government of the school as  
12 provided in KRS 158.150, and as documented in writing by the school as a part of  
13 the school's petition or as an attachment to the school's petition. The petition or  
14 attachment shall describe the student's behavior and all intervention strategies  
15 attempted by the school;
- 16 (6) "Boarding home" means a privately owned and operated home for the boarding and  
17 lodging of individuals which is approved by the Department of Juvenile Justice or  
18 the cabinet for the placement of children committed to the department or the  
19 cabinet;
- 20 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 21 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,  
22 and who have completed a course of education and training in juvenile detention  
23 developed and approved by, the Department of Juvenile Justice after consultation  
24 with other appropriate state agencies;
- 25 (9) "Child" means any person who has not reached his or her eighteenth birthday,  
26 unless otherwise provided;
- 27 (10) "Child-caring facility" means any facility or group home other than a state facility,

- 1 Department of Juvenile Justice contract facility or group home, or one certified by  
2 an appropriate agency as operated primarily for educational or medical purposes,  
3 providing residential care on a twenty-four (24) hour basis to children not related by  
4 blood, adoption, or marriage to the person maintaining the facility;
- 5 (11) "Child-placing agency" means any agency, other than a state agency, which  
6 supervises the placement of children in foster family homes or child-caring facilities  
7 or which places children for adoption;
- 8 (12) "Clinical treatment facility" means a facility with more than eight (8) beds  
9 designated by the Department of Juvenile Justice or the cabinet for the treatment of  
10 mentally ill children. The treatment program of such facilities shall be supervised by  
11 a qualified mental health professional;
- 12 (13) "Commitment" means an order of the court which places a child under the custodial  
13 control or supervision of the Cabinet for Health and Family Services, Department of  
14 Juvenile Justice, or another facility or agency until the child attains the age of  
15 eighteen (18) unless otherwise provided by law;
- 16 (14) "Community-based facility" means any nonsecure, homelike facility licensed,  
17 operated, or permitted to operate by the Department of Juvenile Justice or the  
18 cabinet, which is located within a reasonable proximity of the child's family and  
19 home community, which affords the child the opportunity, if a Kentucky resident, to  
20 continue family and community contact;
- 21 (15) "Complaint" means a verified statement setting forth allegations in regard to the  
22 child which contain sufficient facts for the formulation of a subsequent petition;
- 23 (16) "Court" means the juvenile session of District Court unless a statute specifies the  
24 adult session of District Court or the Circuit Court;
- 25 (17) "Court-designated worker" means that organization or individual delegated by the  
26 Administrative Office of the Courts for the purposes of placing children in  
27 alternative placements prior to arraignment, conducting preliminary investigations,

- 1 and formulating, entering into, and supervising diversion agreements and  
2 performing such other functions as authorized by law or court order;
- 3 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 4 (19) "Department" means the Department for Community Based Services;
- 5 (20) "Dependent child" means any child, other than an abused or neglected child, who is  
6 under improper care, custody, control, or guardianship that is not due to an  
7 intentional act of the parent, guardian, or person exercising custodial control or  
8 supervision of the child;
- 9 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of  
10 conduct subject to the jurisdiction of the court who requires a restricted or closely  
11 supervised environment for his or her own or the community's protection;
- 12 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within  
13 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any  
14 period of detention prior to adjudication;
- 15 (23) "Diversion agreement" means a mechanism designed to hold a child accountable for  
16 his or her behavior and, if appropriate, securing services to serve the best interest of  
17 the child and to provide redress for that behavior without court action and without  
18 the creation of a formal court record;
- 19 (24) "Eligible youth" means a person who:
- 20 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 21 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 22 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in  
23 order to participate in state or federal educational programs or to establish  
24 independent living arrangements;
- 25 (25) "Emergency shelter" is a group home, private residence, foster home, or similar  
26 homelike facility which provides temporary or emergency care of children and  
27 adequate staff and services consistent with the needs of each child;

- 1 (26) "Emotional injury" means an injury to the mental or psychological capacity or  
2 emotional stability of a child as evidenced by a substantial and observable  
3 impairment in the child's ability to function within a normal range of performance  
4 and behavior with due regard to his or her age, development, culture, and  
5 environment as testified to by a qualified mental health professional;
- 6 (27) "Evidence-based practices" means policies, procedures, programs, and practices  
7 proven by scientific research to reliably produce reductions in recidivism;
- 8 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage  
9 to a child, but who has an emotionally significant relationship with the child;
- 10 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 11 (30) "Foster family home" means a private home in which children are placed for foster  
12 family care under supervision of the cabinet or a licensed child-placing agency;
- 13 (31) "Graduated sanction" means any of a continuum of accountability measures,  
14 programs, and sanctions, ranging from less restrictive to more restrictive in nature,  
15 that may include but are not limited to:
- 16 (a) Electronic monitoring;
- 17 (b) Drug and alcohol screening, testing, or monitoring;
- 18 (c) Day or evening reporting centers;
- 19 (d) Reporting requirements;
- 20 (e) Community service; and
- 21 (f) Rehabilitative interventions such as family counseling, substance abuse  
22 treatment, restorative justice programs, and behavioral or mental health  
23 treatment;
- 24 (32) "Habitual runaway" means any child who has been found by the court to have been  
25 absent from his or her place of lawful residence without the permission of his or her  
26 custodian for at least three (3) days during a one (1) year period;
- 27 (33) "Habitual truant" means any child who has been found by the court to have been

- 1 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a  
2 one (1) year period;
- 3 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or  
4 public facility, health care facility, or part thereof, which is approved by the cabinet  
5 to treat children;
- 6 (35) "Independent living" means those activities necessary to assist a committed child to  
7 establish independent living arrangements;
- 8 (36) "Informal adjustment" means an agreement reached among the parties, with  
9 consultation, but not the consent, of the victim of the crime or other persons  
10 specified in KRS 610.070 if the victim chooses not to or is unable to participate,  
11 after a petition has been filed, which is approved by the court, that the best interest  
12 of the child would be served without formal adjudication and disposition;
- 13 (37) "Intentionally" means, with respect to a result or to conduct described by a statute  
14 which defines an offense, that the actor's conscious objective is to cause that result  
15 or to engage in that conduct;
- 16 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that  
17 the program developed on the child's behalf is no more harsh, hazardous, or  
18 intrusive than necessary; or involves no restrictions on physical movements nor  
19 requirements for residential care except as reasonably necessary for the protection  
20 of the child from physical injury; or protection of the community, and is conducted  
21 at the suitable available facility closest to the child's place of residence to allow for  
22 appropriate family engagement;
- 23 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS  
24 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 25 (40) "Near fatality" means an injury that, as certified by a physician, places a child in  
26 serious or critical condition;
- 27 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;

- 1 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who  
2 has not been otherwise charged with a status or public offense;
- 3 (43) "Nonsecure facility" means a facility which provides its residents access to the  
4 surrounding community and which does not rely primarily on the use of physically  
5 restricting construction and hardware to restrict freedom;
- 6 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a  
7 child's own home, where a child may be temporarily placed pending further court  
8 action. Children before the court in a county that is served by a state operated secure  
9 detention facility, who are in the detention custody of the Department of Juvenile  
10 Justice, and who are placed in a nonsecure alternative by the Department of  
11 Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 12 (45) "Out-of-home placement" means a placement other than in the home of a parent,  
13 relative, or guardian, in a boarding home, clinical treatment facility, community-  
14 based facility, detention facility, emergency shelter, fictive kin home, foster family  
15 home, hospital, nonsecure facility, physically secure facility, residential treatment  
16 facility, or youth alternative center;
- 17 (46) "Parent" means the biological or adoptive mother or father of a child;
- 18 (47) "Person exercising custodial control or supervision" means a person or agency that  
19 has assumed the role and responsibility of a parent or guardian for the child, but that  
20 does not necessarily have legal custody of the child;
- 21 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,  
22 which initiates formal court involvement in the child's case;
- 23 (49) "Physical injury" means substantial physical pain or any impairment of physical  
24 condition;
- 25 (50) "Physically secure facility" means a facility that relies primarily on the use of  
26 construction and hardware such as locks, bars, and fences to restrict freedom;
- 27 (51) "Public offense action" means an action, excluding contempt, brought in the interest

1 of a child who is accused of committing an offense under KRS Chapter 527 or a  
2 public offense which, if committed by an adult, would be a crime, whether the same  
3 is a felony, misdemeanor, or violation, other than an action alleging that a child  
4 sixteen (16) years of age or older has committed a motor vehicle offense;

5 (52) "Qualified mental health professional" means:

- 6 (a) A physician licensed under the laws of Kentucky to practice medicine or  
7 osteopathy, or a medical officer of the government of the United States while  
8 engaged in the performance of official duties;
- 9 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or  
10 osteopathy, or a medical officer of the government of the United States while  
11 engaged in the practice of official duties, and who is certified or eligible to  
12 apply for certification by the American Board of Psychiatry and Neurology,  
13 Inc.;
- 14 (c) A psychologist with the health service provider designation, a psychological  
15 practitioner, a certified psychologist, or a psychological associate licensed  
16 under the provisions of KRS Chapter 319;
- 17 (d) A licensed registered nurse with a master's degree in psychiatric nursing from  
18 an accredited institution and two (2) years of clinical experience with mentally  
19 ill persons, or a licensed registered nurse with a bachelor's degree in nursing  
20 from an accredited institution who is certified as a psychiatric and mental  
21 health nurse by the American Nurses Association and who has three (3) years  
22 of inpatient or outpatient clinical experience in psychiatric nursing and who is  
23 currently employed by a hospital or forensic psychiatric facility licensed by  
24 the Commonwealth or a psychiatric unit of a general hospital or a regional  
25 comprehensive care center;
- 26 (e) A licensed clinical social worker licensed under the provisions of KRS  
27 335.100, or a certified social worker licensed under the provisions of KRS

- 1 335.080 with three (3) years of inpatient or outpatient clinical experience in  
2 psychiatric social work and currently employed by a hospital or forensic  
3 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a  
4 general hospital or a regional comprehensive care center;
- 5 (f) A marriage and family therapist licensed under the provisions of KRS 335.300  
6 to 335.399 with three (3) years of inpatient or outpatient clinical experience in  
7 psychiatric mental health practice and currently employed by a hospital or  
8 forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit  
9 of a general hospital, or a regional comprehensive care center;
- 10 (g) A professional counselor credentialed under the provisions of KRS 335.500 to  
11 335.599 with three (3) years of inpatient or outpatient clinical experience in  
12 psychiatric mental health practice and currently employed by a hospital or  
13 forensic facility licensed by the Commonwealth, a psychiatric unit of a general  
14 hospital, or a regional comprehensive care center; or
- 15 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one  
16 (1) of the following requirements:
- 17 1. Provides documentation that he or she has completed a psychiatric  
18 residency program for physician assistants;
  - 19 2. Has completed at least one thousand (1,000) hours of clinical experience  
20 under a supervising physician, as defined by KRS 311.840, who is a  
21 psychiatrist and is certified or eligible for certification by the American  
22 Board of Psychiatry and Neurology, Inc.;
  - 23 3. Holds a master's degree from a physician assistant program accredited  
24 by the Accreditation Review Commission on Education for the  
25 Physician Assistant or its predecessor or successor agencies, is  
26 practicing under a supervising physician as defined by KRS 311.840,  
27 and:

- 1 a. Has two (2) years of clinical experience in the assessment,  
2 evaluation, and treatment of mental disorders; or
- 3 b. Has been employed by a hospital or forensic psychiatric facility  
4 licensed by the Commonwealth or a psychiatric unit of a general  
5 hospital or a private agency or company engaged in the provision  
6 of mental health services or a regional community program for  
7 mental health and individuals with an intellectual disability for at  
8 least two (2) years; or
- 9 4. Holds a bachelor's degree, possesses a current physician assistant  
10 certificate issued by the board prior to July 15, 2002, is practicing under  
11 a supervising physician as defined by KRS 311.840, and:
- 12 a. Has three (3) years of clinical experience in the assessment,  
13 evaluation, and treatment of mental disorders; or
- 14 b. Has been employed by a hospital or forensic psychiatric facility  
15 licensed by the Commonwealth or a psychiatric unit of a general  
16 hospital or a private agency or company engaged in the provision  
17 of mental health services or a regional community program for  
18 mental health and individuals with an intellectual disability for at  
19 least three (3) years;
- 20 (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.  
21 sec. 675(10);
- 22 (54) "Residential treatment facility" means a facility or group home with more than eight  
23 (8) beds designated by the Department of Juvenile Justice or the cabinet for the  
24 treatment of children;
- 25 (55) "Restorative justice practices" means practices which emphasize repairing the  
26 harm caused to victims and the community by offenses. Restorative justice  
27 practices are facilitated meetings attended voluntarily by the victim or victim's

1 representatives, the victim's supporters, the offender, and the offender's  
2 supporters and may include community members, and are conducted with the  
3 goal of reaching a written consensus of all participants. Restorative justice  
4 practices may be used in addition to any other conditions, consequences,  
5 diversion, or disposition imposed by the court;

6 **(56)** "Retain in custody" means, after a child has been taken into custody, the continued  
7 holding of the child by a peace officer for a period of time not to exceed twelve (12)  
8 hours when authorized by the court or the court-designated worker for the purpose  
9 of making preliminary inquiries;

10 **(57)**~~(56)~~ "Risk and needs assessment" means an actuarial tool scientifically proven to  
11 identify specific factors and needs that are related to delinquent and noncriminal  
12 misconduct;

13 **(58)**~~(57)~~ "School personnel" means those certified persons under the supervision of the  
14 local public or private education agency;

15 **(59)**~~(58)~~ "Secretary" means the secretary of the Cabinet for Health and Family  
16 Services;

17 **(60)**~~(59)~~ "Secure juvenile detention facility" means any physically secure facility used  
18 for the secure detention of children other than any facility in which adult prisoners  
19 are confined;

20 **(61)**~~(60)~~ "Serious physical injury" means physical injury which creates a substantial  
21 risk of death or which causes serious and prolonged disfigurement, prolonged  
22 impairment of health, or prolonged loss or impairment of the function of any bodily  
23 member or organ;

24 **(62)**~~(61)~~ "Sexual abuse" includes but is not necessarily limited to any contacts or  
25 interactions in which the parent, guardian, person in a position of authority or  
26 special trust, as defined in KRS 532.045, or other person having custodial control or  
27 supervision of the child or responsibility for his or her welfare, uses or allows,

1 permits, or encourages the use of the child for the purposes of the sexual stimulation  
2 of the perpetrator or another person;

3 ~~(63)~~~~((62))~~ "Sexual exploitation" includes but is not limited to a situation in which a  
4 parent, guardian, person in a position of authority or special trust, as defined in KRS  
5 532.045, or other person having custodial control or supervision of a child or  
6 responsible for his or her welfare, allows, permits, or encourages the child to engage  
7 in an act which constitutes prostitution under Kentucky law; or a parent, guardian,  
8 person in a position of authority or special trust, as defined in KRS 532.045, or  
9 other person having custodial control or supervision of a child or responsible for his  
10 or her welfare, allows, permits, or encourages the child to engage in an act of  
11 obscene or pornographic photographing, filming, or depicting of a child as provided  
12 for under Kentucky law;

13 ~~(64)~~~~((63))~~ "Social service worker" means any employee of the cabinet or any private  
14 agency designated as such by the secretary of the cabinet or a social worker  
15 employed by a county or city who has been approved by the cabinet to provide,  
16 under its supervision, services to families and children;

17 ~~(65)~~~~((64))~~ "Staff secure facility for residential treatment" means any setting which  
18 assures that all entrances and exits are under the exclusive control of the facility  
19 staff, and in which a child may reside for the purpose of receiving treatment;

20 ~~(66)~~~~((65))~~ (a) "Status offense action" is any action brought in the interest of a child  
21 who is accused of committing acts, which if committed by an adult, would not  
22 be a crime. Such behavior shall not be considered criminal or delinquent and  
23 such children shall be termed status offenders. Status offenses shall include:

- 24 1. Beyond the control of school or beyond the control of parents;
- 25 2. Habitual Runaway;
- 26 3. Habitual truant;
- 27 4. Tobacco offenses as provided in KRS 438.305 to 438.340; and

1           5.    Alcohol offenses as provided in KRS 244.085.

2           (b)   Status offenses shall not include violations of state or local ordinances which  
3           may apply to children such as a violation of curfew;

4    ~~(67)~~ "Take into custody" means the procedure by which a peace officer or other  
5           authorized person initially assumes custody of a child. A child may be taken into  
6           custody for a period of time not to exceed two (2) hours;

7    ~~(68)~~ "Transitional living support" means all benefits to which an eligible youth is  
8           entitled upon being granted extended or reinstated commitment to the cabinet by the  
9           court;

10   ~~(69)~~ "Transition plan" means a plan that is personalized at the direction of the  
11           youth that:

12           (a)   Includes specific options on housing, health insurance, education, local  
13           opportunities for mentors and continuing support services, and workforce  
14           supports and employment services; and

15           (b)   Is as detailed as the youth may elect;

16   ~~(70)~~ "Valid court order" means a court order issued by a judge to a child alleged or  
17           found to be a status offender:

18           (a)   Who was brought before the court and made subject to the order;

19           (b)   Whose future conduct was regulated by the order;

20           (c)   Who was given written and verbal warning of the consequences of the  
21           violation of the order at the time the order was issued and whose attorney or  
22           parent or legal guardian was also provided with a written notice of the  
23           consequences of violation of the order, which notification is reflected in the  
24           record of the court proceedings; and

25           (d)   Who received, before the issuance of the order, the full due process rights  
26           guaranteed by the Constitution of the United States;

27   ~~(71)~~ "Violation" means any offense, other than a traffic infraction, for which a

1 sentence of a fine only can be imposed;

2 ~~(72)~~~~(71)~~ "Youth alternative center" means a nonsecure facility, approved by the  
3 Department of Juvenile Justice, for the detention of juveniles, both prior to  
4 adjudication and after adjudication, which meets the criteria specified in KRS  
5 15A.320; and

6 ~~(73)~~~~(72)~~ "Youthful offender" means any person regardless of age, transferred to Circuit  
7 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently  
8 convicted in Circuit Court.

9 ➔Section 29. KRS 630.070 is amended to read as follows:

10 No status offender shall be placed in a secure juvenile detention facility or juvenile  
11 holding facility as a means or form of punishment except following a finding that the  
12 status offender has violated a valid court order. *An order of detention for a child found*  
13 *to have violated a valid court order shall not exceed thirty (30) days.*

14 ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO  
15 READ AS FOLLOWS:

16 *(1) A child is not responsible for status offenses or public offenses if at the time of*  
17 *such conduct, as a result of developmental immaturity, mental illness or*  
18 *intellectual disability, the child lacks substantial capacity either to appreciate the*  
19 *criminality of his or her conduct or to conform his or her conduct to the*  
20 *requirements of law.*

21 *(2) A person shall not be charged, adjudicated, diverted, or made the subject of a*  
22 *complaint for an offense committed when the person was under twelve (12) years*  
23 *of age.*

24 *(3) As used in this section, the term "mental illness or intellectual disability" does*  
25 *not include an abnormality manifested only by repeated criminal or otherwise*  
26 *antisocial conduct.*

27 *(4) A person may prove developmental immaturity, mental illness or intellectual*

1 disability in exculpation of criminal or noncriminal conduct.

2 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO  
3 READ AS FOLLOWS:

4 As used in Sections 30 to 34 of this Act, unless the context otherwise requires:

- 5 (1) "Developmental immaturity" means incomplete development relative to adults, or  
6 delayed development relative to a child's age, which impacts a child's capacity to  
7 understand the criminality or wrongfulness of his or her actions, to resist the  
8 impulse to act, to appreciate the nature and consequences of the proceedings, or  
9 to participate rationally in his or her own defense;
- 10 (2) "Foreseeable future" means not more than three hundred sixty (360) days;
- 11 (3) "Incompetency to stand trial" means, as a result of mental condition, lack of  
12 capacity to appreciate the nature and consequences of the proceedings against  
13 one or to participate rationally in one's own defense;
- 14 (4) "Individual with an intellectual disability" means an individual with significantly  
15 subaverage general intellectual functioning existing concurrently with deficits in  
16 adaptive behavior and manifested during the developmental period, and it is a  
17 condition which may exist concurrently with mental illness or insanity;
- 18 (5) "Insanity" means, as a result of mental condition, lack of substantial capacity  
19 either to appreciate the criminality of one's conduct or to conform one's conduct  
20 to the requirements of law;
- 21 (6) "Mental illness" means substantially impaired capacity to use self-control,  
22 judgment, or discretion in the conduct of one's affairs and social relations,  
23 associated with maladaptive behavior or recognized emotional symptoms where  
24 impaired capacity, maladaptive behavior, or emotional symptoms can be related  
25 to physiological, psychological, or social factors, or to a traumatic or acquired  
26 brain injury;
- 27 (7) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by

1 the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation,  
2 emergency, and consultation and education services for the diagnosis and  
3 treatment of children who have a mental illness;

4 (8) "Qualified mental health professional" has the same meaning as in KRS  
5 202A.011; and

6 (9) "Treatment" means medication or counseling, therapy, psychotherapy, and other  
7 professional services provided by or at the direction of qualified mental health  
8 practitioners. "Treatment" shall not include electroshock therapy or  
9 psychosurgery.

10 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO  
11 READ AS FOLLOWS:

12 (1) A child who intends to introduce evidence of his or her developmental  
13 immaturity, mental illness, or insanity at the time of the offense shall file written  
14 notice of his or her intention at least twenty (20) days before trial.

15 (2) The prosecution shall be granted reasonable time to move for examination of the  
16 child, or the court may order an examination on its own motion.

17 (3) If the court orders an examination, it shall appoint at least one (1) qualified  
18 mental health practitioner to examine, treat, and report on the child's mental  
19 condition. The examination shall be performed in the least restrictive alternative  
20 environment. If it appears the examination will not be completed before the trial  
21 date, the court may, on its own motion or on motion of either party, postpone the  
22 trial date until after the examination.

23 (4) No less than ten (10) days before trial, the prosecution shall file the names and  
24 addresses of witnesses it proposes to offer in rebuttal along with reports prepared  
25 by its witnesses.

26 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO  
27 READ AS FOLLOWS:

- 1 (1) A court may commit a child to a psychiatric facility so that a qualified mental  
2 health practitioner can examine, treat, and report on the child's mental  
3 condition. Commitment under this section shall be for up to twenty-one (21) days,  
4 but not longer than necessary to complete the examination, treatment, or report.
- 5 (2) Reports on a child's mental condition prepared under this chapter shall be filed  
6 within ten (10) days of the examination.
- 7 (3) The child shall be present at any hearing on his or her mental condition unless  
8 he or she waives the right to be present.
- 9 (4) The examining qualified mental health practitioner shall appear at any hearing  
10 on the child's mental condition unless the child waives the right to have him or  
11 her appear.
- 12 (5) A qualified mental health practitioner retained by the child shall be permitted to  
13 participate in any examination under this chapter.
- 14 (6) The cabinet, if the cabinet or its agent or employee does not provide the  
15 examination, shall pay a reasonable fee to any qualified mental health  
16 practitioner ordered to examine, treat, and report on a child's mental condition.
- 17 (7) No disclosure made by a child during observation, diagnosis, or treatment shall  
18 be admissible in any status offense actions, public offense actions, or criminal  
19 proceedings unless the child introduces evidence concerning his or her mental  
20 condition at such a proceeding.
- 21 (8) The termination of criminal proceedings under this chapter is not a bar to the  
22 institution of civil commitment proceedings.

23 ➔SECTION 34. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO  
24 READ AS FOLLOWS:

- 25 (1) If the court finds a child accused of a public offense or a status offense  
26 incompetent to stand trial but there is a substantial probability he or she will  
27 attain competency in the foreseeable future, it shall:

1 (a) If the child's incompetence to stand trial is related to developmental  
 2 immaturity or intellectual disability, refer the child for remedial competency  
 3 education services; or

4 (b) If the child's incompetence to stand trial is related to mental illness, commit  
 5 the child to a psychiatric facility as provided in KRS Chapter 645 or an  
 6 appropriate community-based treatment agency.

7 (2) If the court finds the child incompetent to stand trial but there is no substantial  
 8 probability the child will attain competency in the foreseeable future, it shall:

9 (a) Dismiss the case with prejudice; or

10 (b) If the child is accused of an offense which would classify him or her as a  
 11 violent offender under KRS 439.3401, dismiss the case without prejudice. If  
 12 the case is not refiled within twelve (12) months of dismissal, the case shall  
 13 be considered dismissed with prejudice. If the case is refiled, the child shall  
 14 not be eligible for prosecution as a youthful offender unless the child was  
 15 eligible at the time the case was originally dismissed.

16 (3) If the court finds the child competent to stand trial, the court shall continue the  
 17 proceedings against the child.

18 ➔Section 35. KRS 503.010 is amended to read as follows:

19 The following definitions apply in this chapter unless the context otherwise requires:

20 (1) "Deadly physical force" means force which is used with the purpose of causing  
 21 death or serious physical injury or which the defendant knows to create a substantial  
 22 risk of causing death or serious physical injury.

23 (2) "Dwelling" means a building or conveyance of any kind, including any attached  
 24 porch, whether the building or conveyance is temporary or permanent, mobile or  
 25 immobile, which has a roof over it, including a tent, and is designed to be occupied  
 26 by people lodging therein at night.

27 (3) "Imminent" means impending danger, and, in the context of domestic violence and

1 abuse as defined by KRS 403.720, belief that danger is imminent can be inferred  
2 from a past pattern of repeated serious abuse.

3 (4) "Physical force" means force used upon or directed toward the body of another  
4 person and includes confinement.

5 (5) **"Physical restraint" means a personal restriction that immobilizes or reduces the**  
6 **ability of a student to move the student's torso, arms, legs, or head freely, but does**  
7 **not include:**

8 **(a) Temporary touching or holding of the hand, wrist, arm, shoulder, or back**  
9 **for the purpose of encouraging a student to move voluntarily to a safe**  
10 **location;**

11 **(b) A behavioral intervention, such as proximity control or verbal soothing,**  
12 **used as a response to calm and comfort an upset student;**

13 **(c) Less-restrictive physical contact or redirection to promote student safety; or**

14 **(d) Physical guidance or prompting when teaching a skill or redirecting the**  
15 **student's attention.**

16 **(6)** "Residence" means a dwelling in which a person resides either temporarily or  
17 permanently or is visiting as an invited guest.

18 ~~(7)~~~~(6)~~ "Vehicle" means a conveyance of any kind, whether or not motorized, which  
19 is designed to transport people or property.

20 ➔Section 36. KRS 635.020 is amended to read as follows:

21 (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child  
22 before the court has committed a felony other than those described in subsections  
23 (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially  
24 proceed in accordance with the provisions of this chapter.

25 (2) If a child charged with **an offense against a person which is** a capital offense, Class  
26 A felony, or Class B felony, **was sixteen (16) years of age or older**~~had attained age~~  
27 ~~fourteen (14)~~ at the time of the alleged commission of the offense, the court shall,

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

5 (3) If a child charged with **an offense against a person which is** a Class C or Class D  
6 felony has on one (1) prior separate occasion been adjudicated a public offender for  
7 a felony offense **which was an offense against a person** and ~~was~~~~had attained the~~  
8 ~~age of~~ sixteen (16) **years of age or older** at the time of the alleged commission of  
9 the offense, the court shall, upon motion of the county attorney made prior to  
10 adjudication, and after the county attorney has consulted with the Commonwealth's  
11 attorney, that the child be proceeded against as a youthful offender, proceed in  
12 accordance with the provisions of KRS 640.010.

13 ~~(4) [Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding,~~  
14 ~~]If a child charged with a felony in which a firearm, whether functional or not, was~~  
15 ~~used~~ **by the child** in the commission of the offense **was sixteen (16) years of age or**  
16 **older**~~[had attained the age of fourteen (14) years]~~ at the time of the commission of  
17 the alleged offense, **the court shall, after the county attorney has consulted with**  
18 **the Commonwealth's attorney, and upon motion of the county attorney made**  
19 **prior to adjudication, that the child be proceeded against as a youthful offender,**  
20 **proceed in accordance with the provisions of Section 37 of this Act**~~he shall be~~  
21 ~~transferred to the Circuit Court for trial as an adult if, following a preliminary~~  
22 ~~hearing, the District Court finds probable cause to believe that the child committed~~  
23 ~~a felony, that a firearm was used in the commission of that felony, and that the child~~  
24 ~~was fourteen (14) years of age or older at the time of the commission of the alleged~~  
25 ~~felony. If convicted in the Circuit Court, he shall be subject to the same penalties as~~  
26 ~~an adult offender, except that until he reaches the age of eighteen (18) years, he~~  
27 ~~shall be confined in a facility or program for juveniles or for youthful offenders,~~

1 ~~unless the provisions of KRS 635.025 apply or unless he is released pursuant to~~  
2 ~~expiration of sentence or parole, and at age eighteen (18) he shall be returned to the~~  
3 ~~sentencing Circuit Court for proceedings consistent with KRS 640.030(2)].~~

4 (5) If a child previously convicted as a youthful offender under the provisions of KRS  
5 Chapter 640 is charged with a felony **which is an offense against a person**  
6 allegedly committed prior to his eighteenth birthday, the court shall, upon motion of  
7 the county attorney made prior to adjudication, and after the county attorney has  
8 consulted with the Commonwealth's attorney, that the child be proceeded against as  
9 a youthful offender, proceed in accordance with the provisions of KRS 640.010.

10 (6) A child who is charged as is provided in subsection (2) of this section and is also  
11 charged with a Class C or D felony, a misdemeanor, or a violation arising from the  
12 same course of conduct shall have all charges included in the same proceedings; and  
13 the court shall, upon motion of the county attorney made prior to adjudication, and  
14 after the county attorney has consulted with the Commonwealth's attorney, that the  
15 child be proceeded against as a youthful offender, proceed in accordance with the  
16 provisions of KRS 640.010.

17 (7) If a person who is eighteen (18) or older and before the court is charged with a  
18 felony **which was an offense against a person** that occurred prior to his eighteenth  
19 birthday, the court shall, upon motion of the county attorney made prior to  
20 adjudication, and after the county attorney has consulted with the Commonwealth's  
21 attorney, that the child be proceeded against as a youthful offender, proceed in  
22 accordance with the provisions of KRS 640.010.

23 (8) All offenses arising out of the same course of conduct shall be tried with the felony  
24 arising from that course of conduct, whether the charges are adjudicated under this  
25 chapter or under KRS Chapter 640 and transferred to Circuit Court.

26 ➔Section 37. KRS 640.010 is amended to read as follows:

27 (1) For children who are alleged to be youthful offenders by falling in the purview of

1 KRS 635.020(2) ~~to~~ [(3), (5), (6), (7), or] (8), the court shall at arraignment assure  
2 that the child's rights as specified in KRS 610.060 have been explained and  
3 followed.

4 (2) In the case of a child alleged to be a youthful offender by falling within the purview  
5 of KRS 635.020(2) ~~to~~ [(3), (5), (6), (7), or] (8), the District Court shall, upon  
6 motion by the county attorney to proceed under this chapter, and after the county  
7 attorney has consulted with the Commonwealth's attorney, conduct a preliminary  
8 hearing to determine if the child should be transferred to Circuit Court as a youthful  
9 offender. The preliminary hearing shall be conducted in accordance with the Rules  
10 of Criminal Procedure.

11 (a) At the preliminary hearing, the court shall determine if there is probable cause  
12 to believe that an offense was committed, that the child committed the  
13 offense, and that the child is of sufficient age and has the requisite number of  
14 prior adjudications, if any, necessary to fall within the purview of KRS  
15 635.020.

16 (b) If the District Court determines probable cause exists, the court shall consider  
17 the following factors before determining whether the child's case shall be  
18 transferred to the Circuit Court:

- 19 1. The seriousness of the alleged offense;
- 20 2. Whether the offense was against persons or property, with greater  
21 weight being given to offenses against persons;
- 22 3. The maturity of the child as determined by his environment;
- 23 4. The child's prior record;
- 24 5. The best interest of the child and community;
- 25 6. The prospects of adequate protection of the public;
- 26 7. The likelihood of reasonable rehabilitation of the child by the use of  
27 procedures, services, and facilities currently available to the juvenile

1 justice system;~~and~~

2 8. Evidence of a child's participation in a gang; and

3 9. Whether the child used a firearm in the commission of the offense.

4 (c) If, following the completion of the preliminary hearing, the District Court  
5 finds, after considering the factors enumerated in paragraph (b) of this  
6 subsection, that two (2) or more of the factors specified in paragraph (b) of  
7 this subsection are determined to favor transfer, the child may be transferred  
8 to Circuit Court, and if the child is transferred the District Court shall issue an  
9 order transferring the child as a youthful offender and shall state on the record  
10 the reasons for the transfer. The child shall then be proceeded against in the  
11 Circuit Court as an adult, except as otherwise provided in this chapter.

12 (d) If, following completion of the preliminary hearing, the District Court is of the  
13 opinion, after considering the factors enumerated in paragraph (b) of this  
14 subsection, that the child shall not be transferred to the Circuit Court, the case  
15 shall be dealt with as provided in KRS Chapter 635.

16 (3) If the child is transferred to Circuit Court under this section and the grand jury does  
17 not find that there is probable cause to indict the child as a youthful offender, as  
18 defined in KRS 635.020(2), (3), (5), (6), (7), and (8), but does find that there is  
19 probable cause to indict the child for another criminal offense, the child shall not be  
20 tried as a youthful offender in Circuit Court but shall be returned to District Court to  
21 be dealt with as provided in KRS Chapter 635.

22 ➔SECTION 38. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
23 READ AS FOLLOWS:

24 As used in Sections 38 to 42 of this Act:

25 (1) "Physical restraint" means a personal restriction that immobilizes or reduces the  
26 ability of a student to move the student's torso, arms, legs, or head freely, but  
27 does not include:

1        (a) Temporary touching or holding of the hand, wrist, arm, shoulder, or back  
2        for the purpose of encouraging a student to move voluntarily to a safe  
3        location;

4        (b) A behavioral intervention, such as proximity control or verbal soothing,  
5        used as a response to calm and comfort an upset student;

6        (c) Less-restrictive physical contact or redirection to promote student safety; or

7        (d) Physical guidance or prompting when teaching a skill or redirecting the  
8        student's attention;

9        (2) "School personnel" means teachers, principals, administrators, counselors,  
10       social workers, psychologists, paraprofessionals, nurses, librarians, school  
11       resource officers, school security officers, sworn law enforcement officers, and  
12       other support staff who are employed in a school or who perform services in the  
13       school on a contractual basis;

14       (3) "School resource officer" has the same meaning as in KRS 158.441;

15       (4) "School security officer" has the same meaning as in KRS 158.441;

16       (5) "Serious physical injury" has the same meaning as in KRS 500.080; and

17       (6) "Seclusion" means the involuntary confinement of a student alone in a room or  
18       area from which the student is prevented from leaving but does not mean  
19       classroom timeouts, supervised in-school detentions, or out-of-school  
20       suspensions.

21       ➔SECTION 39. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
22       READ AS FOLLOWS:

23       Each local school district shall establish policies and procedures that:

24       (1) Require immediate notification to local law enforcement and to the Kentucky  
25       Department of Education in the event of death or serious physical injury  
26       resulting from the use of physical restraint or seclusion;

27       (2) Outline a procedure by which parents may submit a complaint regarding the

1       physical restraint or seclusion of their child, which shall require the district and  
 2       school to investigate the circumstances surrounding the physical restraint or  
 3       seclusion, make written findings, and if appropriate, take corrective action; and  
 4       (3) Outline procedures to be followed during and after each use of physical restraint  
 5       or seclusion, including notice to parents, documentation of the event in the  
 6       student information system, and a process for the parent or emancipated youth to  
 7       request a debriefing session. The debriefing session shall occur as soon as  
 8       practicable, but not later than five (5) school days following the request of the  
 9       parent or the emancipated youth, unless delayed by written mutual agreement of  
 10       the parent or emancipated youth and the school.

11       ➔SECTION 40. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
 12 READ AS FOLLOWS:

13       (1) Physical restraint or seclusion may only be implemented in a public school or  
 14       educational program if:

15       (a) The physical restraint does not interfere with the student's ability to  
 16       communicate in the student's primary language or mode of  
 17       communication, unless the student uses sign language or an augmentative  
 18       mode of communication as the student's primary mode of communication  
 19       and the implementer determines that freedom of the student's hands for  
 20       brief periods during the restraint appears likely to result in physical harm to  
 21       self or others;

22       (b) The student's physical and psychological well-being is monitored for the  
 23       duration of the physical restraint;

24       (c) Less-restrictive behavioral interventions have been ineffective in stopping  
 25       the imminent danger of serious physical injury to self or others, except in  
 26       the case of a clearly unavoidable emergency situation posing imminent  
 27       danger of serious physical injury to self or others; and

1 (d) School personnel implementing the physical restraint are appropriately  
2 trained, unless necessary to prevent serious physical injury to self or others  
3 in emergency circumstances where other school personnel intervene and  
4 summon trained school personnel as soon as possible.

5 (2) When implementing a physical restraint, school personnel shall use only the  
6 amount of force reasonably believed to be necessary to protect the student or  
7 others from imminent danger of serious physical injury.

8 (3) The use of physical restraint shall end as soon as:

9 (a) The student's behavior no longer poses an imminent danger of serious  
10 physical injury to self or others; or

11 (b) A medical condition occurs putting the student at risk of harm.

12 ➔SECTION 41. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
13 READ AS FOLLOWS:

14 The following data shall be reported by the district in the student information system  
15 related to incidents of physical restraint and seclusion:

16 (1) Aggregate number of uses of physical restraint;

17 (2) Aggregate number of students placed in physical restraint;

18 (3) Aggregate number of uses of seclusion;

19 (4) Aggregate number of students placed in seclusion;

20 (5) Aggregate number of instances of death, substantial risk of death, extreme  
21 physical pain, protracted and obvious disfigurement or protracted loss or  
22 impairment of the function of a bodily member, organ, or mental faculty to  
23 students related to physical restraint and seclusion;

24 (6) Aggregate number of instances of death, substantial risk of death, extreme  
25 physical pain, protracted and obvious disfigurement or protracted loss or  
26 impairment of the function of a bodily member, organ, or mental faculty to  
27 school personnel related to physical restraint and seclusion; and

1 (7) Aggregate number of instances in which a school resource officer, school  
 2 security officer, or other sworn law enforcement officer is involved in the physical  
 3 restraint or seclusion of a student.

4 All data reported pursuant to this section shall include a breakdown by race, sex, age,  
 5 and presence of a disability. A child shall be identified as having a disability if the child  
 6 has been referred for evaluation or admitted to special education in accordance with  
 7 707 KAR 1:300 or is eligible for accommodations under Section 504 of the  
 8 Rehabilitation Act of 1973 or the Americans with Disabilities Act. Race shall be  
 9 reported using current categories which satisfy the standards established by the United  
 10 States Office of Management and Budget.

11 ➔SECTION 42. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
 12 READ AS FOLLOWS:

13 If a district fails to comply with Sections 38 to 42 of this Act, the Department of  
 14 Education may establish a corrective action plan for the district, may provide technical  
 15 assistance to the district, and may institute mandatory training.

16 ➔Section 43. KRS 158.135 is amended to read as follows:

17 (1) As used in this section, unless the context otherwise requires:

18 (a) "State agency children" means:

19 1. a. Those children of school age committed to or in custody of the  
 20 Cabinet for Health and Family Services and placed, or financed by  
 21 the cabinet, in a Cabinet for Health and Family Services operated  
 22 or contracted institution, treatment center, facility, including those  
 23 for therapeutic foster care and excluding those for nontherapeutic  
 24 foster care; ~~{or}~~

25 b. Those children placed or financed by the Cabinet for Health and  
 26 Family Services in a private facility pursuant to child care  
 27 agreements including those for therapeutic foster care and

- 1                                   excluding those for nontherapeutic foster care;or
- 2                                   **c. Those children referred by the family accountability,**
- 3                                   **intervention, and response team or the county attorney and**
- 4                                   **admitted to a juvenile justice day treatment program;**
- 5                                   2. Those children of school age in home and community-based services
- 6                                   provided as an alternative to intermediate care facility services for the
- 7                                   intellectually disabled;
- 8                                   3. Those children committed to or in custody of the Department of Juvenile
- 9                                   Justice and placed in a department operated or contracted facility or
- 10                                   program; and
- 11                                   4. Those children referred by a family accountability, intervention, and
- 12                                   response team as described in KRS 605.035 and admitted to a
- 13                                   Department of Juvenile Justice operated or contracted day treatment
- 14                                   program;
- 15                                   (b) "Current costs and expenses" means all expenditures, other than for capital
- 16                                   outlay and debt service, which are in excess of the amount generated by state
- 17                                   agency children under the Support Education Excellence in Kentucky funding
- 18                                   formula pursuant to KRS 157.360. These expenditures are necessary to
- 19                                   provide a two hundred thirty (230) day school year, smaller teacher pupil
- 20                                   ratio, related services if identified on an individual educational plan, and more
- 21                                   intensive educational programming; and
- 22                                   (c) "Therapeutic foster care" means a remedial care program for troubled children
- 23                                   and youth that is in the least restrictive environment where the foster parent is
- 24                                   trained to implement planned, remedial supervision and care leading to
- 25                                   positive changes in the child's behavior. Children served in this placement
- 26                                   have serious emotional problems and meet one (1) or more of the following
- 27                                   criteria:

- 1           1. Imminent release from a treatment facility;
  - 2           2. Aggressive or destructive behavior;
  - 3           3. At risk of being placed in more restrictive settings, including
  - 4           institutionalization; or
  - 5           4. Numerous placement failures.
- 6   (2) (a) Unless otherwise provided by the General Assembly in a budget bill, any
- 7           county or independent school district that provides elementary or secondary
- 8           school services to state agency children shall be reimbursed through a contract
- 9           with the Kentucky Educational Collaborative for State Agency Children. The
- 10          school services furnished to state agency children shall be equal to those
- 11          furnished to other school children of the district.
- 12       (b) The Department of Education shall, to the extent possible within existing
- 13          appropriations, set aside an amount of the state agency children funds
- 14          designated by the General Assembly in the biennial budget to reimburse a
- 15          school district for its expenditures exceeding twenty percent (20%) of the total
- 16          amount received from state and federal sources to serve a state agency child.
- 17   (3) The General Assembly shall, if possible, increase funding for the education
- 18          programs for state agency children by a percentage increase equal to that provided
- 19          in the biennial budget for the base funding level for each pupil in the program to
- 20          support education excellence in Kentucky under KRS 157.360 and, if applicable, by
- 21          an amount necessary to address increases in the number of state agency children
- 22          being served.
- 23   (4) The Kentucky Educational Collaborative for State Agency Children shall make to
- 24          the chief state school officer the reports required concerning school services for
- 25          state agency children, and shall file with the Cabinet for Health and Family Services
- 26          unit operating or regulating the institution or day treatment center, or contracting for
- 27          services, in which the children are located a copy of the annual report made to the

1 chief state school officer.

2 (5) The Cabinet for Health and Family Services shall contract with a university-  
3 affiliated training resource center utilizing all funds generated by the children in  
4 state agency programs, except Oakwood and Hazelwood funds, and the funds in the  
5 Kentucky Department of Education budget, pursuant to this section, as well as any  
6 other educational funds for which all Kentucky children are entitled. The total of  
7 these funds shall be utilized to provide educational services through the Kentucky  
8 Educational Collaborative for State Agency Children established in KRS 605.110.

9 (6) Notwithstanding the provisions of any other statute, the Kentucky Educational  
10 Collaborative for State Agency Children shall operate a two hundred thirty (230)  
11 day school program.

12 ➔Section 44. KRS 610.265 is amended to read as follows:

13 (1) Any child who is alleged to be a status offender or who is accused of being in  
14 contempt of court on an underlying finding that the child is a status offender may be  
15 detained in a nonsecure facility or a secure juvenile detention facility for a period of  
16 time not to exceed twenty-four (24) hours, exclusive of weekends and holidays,  
17 pending a detention hearing. Any child who is accused of committing a public  
18 offense or of being in contempt of court on an underlying public offense may be  
19 detained in a secure juvenile detention facility or a nonsecure setting approved by  
20 the Department of Juvenile Justice for a period of time not to exceed forty-eight  
21 (48) hours, exclusive of weekends and holidays, pending a detention hearing.

22 (2) Within the period of detention described in subsection (1) of this section, exclusive  
23 of weekends and holidays, a detention hearing shall be held by the judge or trial  
24 commissioner of the court for the purpose of determining whether the child shall be  
25 further detained. At the hearing held pursuant to this subsection, the court shall  
26 consider the nature of the offense, the child's background and history, and other  
27 information relevant to the child's conduct or condition.

- 1 (3) If the court orders a child detained further, that detention shall be served as follows:
- 2 (a) If the child is charged with a capital offense, Class A felony, or Class B  
3 felony, detention shall occur in a secure juvenile detention facility pending the  
4 child's next court appearance subject to the court's review of the detention  
5 order prior to that court appearance;
- 6 (b) Except as provided in KRS 630.080(2), if it is alleged that the child is a status  
7 offender, the child may be detained in a secure juvenile detention facility for a  
8 period not to exceed twenty-four (24) hours after which detention shall occur  
9 in a nonsecure setting approved by the Department of Juvenile Justice pending  
10 the child's next court appearance subject to the court's review of the detention  
11 order prior to the next court appearance;
- 12 (c) If a status offender or a child alleged to be a status offender is charged with  
13 violating a valid court order, the child may be detained in a secure juvenile  
14 detention facility, or in a nonsecure setting approved by the Department of  
15 Juvenile Justice, for a period not to exceed forty-eight (48) hours, exclusive of  
16 weekends and holidays, pending the child's next court appearance;
- 17 (d) Prior to ordering a status offender or alleged status offender who is subject to  
18 a valid court order securely detained because the child violated the valid court  
19 order, the court shall:
- 20 1. Affirm that the requirements for a valid court order were met at the time  
21 the original order was issued;
- 22 2. Make a determination during the adjudicatory hearing that the child  
23 violated the valid court order; and
- 24 3. Within forty-eight (48) hours after the adjudicatory hearing on the  
25 violation of a valid court order by the child, exclusive of weekends and  
26 holidays, receive and review a written report prepared by an appropriate  
27 public agency that reviews the behavior of the child and the

1 circumstances under which the child was brought before the court,  
2 determines the reasons for the child's behavior, and determines whether  
3 all dispositions other than secure detention have been exhausted or are  
4 inappropriate. If a prior written report is included in the child's file, that  
5 report shall not be used to satisfy this requirement. The child may be  
6 securely detained for a period not to exceed forty-eight (48) hours,  
7 exclusive of weekends and holidays, pending receipt and review of the  
8 report by the court. The hearing shall be conducted in accordance with  
9 the provisions of KRS 610.060. The findings required by this subsection  
10 shall be included in any order issued by the court which results in the  
11 secure or nonsecure detention of a status offender; ~~and~~

12 (e) If the child is charged with a public offense, or contempt on a public offense,  
13 and the county in which the case is before the court is served by a state  
14 operated secure detention facility under the statewide detention plan, the child  
15 shall be referred to the Department of Juvenile Justice for a security  
16 assessment and placement in an approved detention facility or program  
17 pending the child's next court appearance; and

18 (f) Within ten (10) days after the detention hearing, and every ten (10) days  
19 thereafter while the child remains in detention, a detention hearing shall be  
20 held by the judge or trial commissioner of the court for the purpose of  
21 determining whether the child shall be further detained. At the hearing held  
22 pursuant to this paragraph, the court shall consider the nature of the  
23 offense, the child's background and history, and other information relevant  
24 to the child's conduct or condition.

25 (4) If, at the hearing conducted under subsection (2) of this section, the court conducts  
26 an adjudicatory hearing on the merits of a violation of a valid court order, that  
27 hearing shall conform to the requirements of KRS 630.080.

1 (5) If the detention hearing is not held as provided in subsection (1) of this section, the  
2 child shall be released as provided in KRS 610.290.

3 (6) If the child is not released, the court-designated worker shall notify the parent,  
4 person exercising custodial control or supervision, a relative, guardian, or other  
5 responsible adult, and the Department of Juvenile Justice or the cabinet, as  
6 appropriate.

7 ➔Section 45. The following KRS section is repealed:

8 610.012 Exclusive jurisdiction of District Court or family division of Circuit Court  
9 concerning temporary detention of suspected runaway.