

1 AN ACT relating to juveniles.

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

3 ➔Section 1. KRS 605.035 is amended to read as follows:

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

1 (4) The team shall adopt a case management approach and process for reviewing:

2 (a) Referrals from the court-designated worker involving cases in which a child
3 has failed to appear for a preliminary intake inquiry, declined to enter into a
4 diversion agreement, or failed to complete the terms of the agreement;

5 **(b) Referrals from the court-designated worker involving a child twelve (12)**
6 **years of age or younger**; and

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

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

13 ~~1.(a)~~ Refer the case back to the court-designated worker to take further
14 action as recommended by the team;

15 **2. For a child twelve (12) years of age or younger, refer the case to a**
16 **community partner or the cabinet for a safety assessment and, if**
17 **indicated by the assessment, developmentally appropriate services**; or

18 ~~3.(b)~~ Advise the court-designated worker to refer the case to the county
19 attorney if the team has no further recommendations to offer.

20 **(b) The county attorney may choose to take no action against a child for any**
21 **offense committed when the child was twelve (12) years of age or younger.**

22 ➔Section 2. KRS 610.030 is amended to read as follows:

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

24 (1) If any person files a complaint alleging that a child, except a child alleged to be
25 neglected, abused, dependent or mentally ill who is subject to the jurisdiction of the
26 court, may be within the purview of KRS Chapters 600 to 645, the court-designated
27 worker shall:

1 **(a)** Make a preliminary determination as to whether the complaint is complete. In
2 any case where the court-designated worker finds that the complaint is
3 incomplete, the court-designated worker shall return the complaint without
4 delay to the person or agency originating the complaint or having knowledge
5 of the facts, or to the appropriate law enforcement agency having investigative
6 jurisdiction of the offense, and request additional information in order to
7 complete the complaint. The complainant shall promptly furnish the
8 additional information requested; **or**

9 **(b) If the child is twelve (12) years of age or younger, take no action on the**
10 **complaint and refer the child to the family accountability, intervention, and**
11 **response team;**

12 (2) (a) Upon receipt of a complaint which appears to be complete and which alleges
13 that a child has committed a public offense, the court-designated worker shall
14 refer the complaint to the county attorney for review pursuant to KRS
15 635.010.

16 (b) If after review the county attorney elects to proceed, the court-designated
17 worker shall conduct a preliminary intake inquiry to recommend whether the
18 interests of the child or the public require that further action be taken or
19 whether, in the interest of justice, the complaint can be resolved informally
20 without the filing of a petition;

21 (3) Upon receipt of a complaint that appears to be complete and that alleges that the
22 child has committed a status offense, the court-designated worker shall conduct a
23 preliminary intake inquiry to determine whether the interests of the child or the
24 public require that further action be taken;

25 (4) Prior to conducting a preliminary intake inquiry, the court-designated worker shall
26 notify the child and the child's parent, guardian, or other person exercising custodial
27 control or supervision of the child in writing:

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

1 would be better served, and with the written approval of the county attorney
2 for a public offense complaint, if necessary, conduct a formal conference and
3 enter into a diversion agreement;

4 (7) Upon receiving written approval of the county attorney, if necessary, to divert a
5 public offense complaint, and prior to conducting a formal conference, the court-
6 designated worker shall advise in writing the complainant, the victim if any, and the
7 law enforcement agency having investigative jurisdiction of the offense:

8 (a) Of the recommendation and the reasons therefor and that the complainant,
9 victim, or law enforcement agency may submit within ten (10) days from
10 receipt of such notice a complaint to the county attorney for special review; or

11 (b) In the case of a misdemeanor diverted pursuant to KRS 635.010(4), of the fact
12 that the child was statutorily entitled to divert the case;

13 (8) A formal conference shall include the child and his or her parent, guardian, or other
14 person exercising custodial control or supervision. The formal conference shall be
15 used to:

16 (a) Present information obtained at the preliminary intake inquiry; and

17 (b) Develop a diversion agreement that shall require that the child regularly attend
18 school, shall not exceed six (6) months in duration, and may include:

19 1. Referral of the child, and family if appropriate, to a public or private
20 entity or person for the provision of identified services to address the
21 complaint or assessed needs;

22 2. Referral of the child, and family if appropriate, to a community service
23 program within the limitations provided under KRS 635.080(2);

24 3. Restitution, limited to the actual pecuniary loss suffered by the victim, if
25 the child has the means or ability to make restitution;

26 4. Notification that the court-designated worker may apply graduated
27 sanctions for failure to comply with the diversion agreement;

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