

1 AN ACT relating to juvenile justice and making an appropriation therefor.

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

3 ➔Section 1. KRS 610.030 is amended to read as follows:

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

- 5 (1) If any person files a complaint alleging that a child, except a child alleged to be
6 neglected, abused, dependent, or mentally ill who is subject to the jurisdiction of the
7 court, may be within the purview of KRS Chapters 600 to 645, the court-designated
8 worker shall make a preliminary determination as to whether the complaint is
9 complete. In any case where the court-designated worker finds that the complaint is
10 incomplete, the court-designated worker shall return the complaint without delay to
11 the person or agency originating the complaint or having knowledge of the facts, or
12 to the appropriate law enforcement agency having investigative jurisdiction of the
13 offense, and request additional information in order to complete the complaint. The
14 complainant shall promptly furnish the additional information requested;
- 15 (2) (a) Upon receipt of a complaint which appears to be complete and which alleges
16 that a child has committed a public offense, the court-designated worker shall
17 refer the complaint to the county attorney for review pursuant to KRS
18 635.010.
- 19 (b) If after review the county attorney elects to proceed, the court-designated
20 worker shall conduct a preliminary intake inquiry to recommend whether the
21 interests of the child or the public require that further action be taken or
22 whether, in the interest of justice, the complaint can be resolved informally
23 without the filing of a petition;
- 24 (3) Upon receipt of a complaint that appears to be complete and that alleges that the
25 child has committed a status offense, the court-designated worker shall conduct a
26 preliminary intake inquiry to determine whether the interests of the child or the
27 public require that further action be taken;

- 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-
18 based 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
- 21 attend 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 diversion; 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 **(c) If the child enters into a diversion agreement or is referred to the family**
- 21 **accountability, intervention, and response team for truancy and there is no**
- 22 **action implemented by the family accountability, intervention, and response**
- 23 **team within ninety (90) days, the family accountability, intervention, and**
- 24 **response team shall report to the court the reasons for inaction and shall**
- 25 **provide a plan for action on the child's case. The court shall review on the**
- 26 **record any complaint, without the attendance or appearance of the child, at**
- 27 **regular intervals at the court's discretion to verify family accountability,**

1 intervention, and response team member attendance, team accountability,
 2 and performance.

3 (d) If a child fails to appear for a preliminary intake inquiry or fails to complete
 4 a diversion agreement due to lack of parental cooperation, the court-
 5 designated worker shall make a finding that the child failed to complete the
 6 diversion due to lack of parent cooperation;

7 (10) If a complaint is referred to the court, the complaint and findings of the court-
 8 designated worker's preliminary intake inquiry shall be submitted to the court for
 9 the court to determine whether process should issue;

10 (11) If the court receives a complaint with findings that the diversion is failed due to
 11 lack of parental cooperation, the court may order parental cooperation and refer
 12 the case back to the court-designated worker. The child shall not be detained
 13 upon this finding; and

14 (12)~~(11)~~ At any stage in the proceedings described in this section, the court or the
 15 county attorney may review any decision of the court-designated worker. The court
 16 upon its own motion or upon written request of the county attorney may refer any
 17 complaint for a formal hearing.

18 ➔Section 2. KRS 610.990 is amended to read as follows:

19 Any person who intentionally violates any of the provisions of this chapter shall be guilty
 20 of a Class B misdemeanor, except that an intentional violation of an order issued under
 21 subsection (11) of Section 1 of this Act shall constitute a violation of KRS 530.070(1)(c)
 22 if the case relates to truancy.

23 ➔Section 3. KRS 610.265 is amended to read as follows:

24 (1) Any child who is alleged to be a status offender or who is accused of being in
 25 contempt of court on an underlying finding that the child is a status offender may be
 26 detained in a nonsecure facility or a secure juvenile detention facility for a period of
 27 time not to exceed twenty-four (24) hours, exclusive of weekends and holidays,

1 pending a detention hearing. Any child who is accused of committing a public
2 offense or of being in contempt of court on an underlying public offense may be
3 detained in a secure juvenile detention facility or a nonsecure setting approved by
4 the Department of Juvenile Justice for a period of time not to exceed forty-eight
5 (48) hours, exclusive of weekends and holidays, pending a detention hearing.

6 (2) Any child accused of committing a public offense that would be considered a
7 violent felony offense as defined in KRS 532.200 shall be detained in a secure
8 juvenile detention facility for a period of time not to exceed forty-eight (48) hours,
9 exclusive of weekends and holidays, pending a detention hearing, unless the
10 detention hearing can be held within the time allotted to peace officers to retain
11 custody of the child pursuant to KRS 610.200 or 610.220. This subsection shall
12 not apply to any child ten (10) years of age or younger.

13 (3) (a) Any child detained pursuant to subsection (2) of this section shall be
14 examined by a qualified mental health professional as defined under KRS
15 202A.011 to determine if the child exhibits behavior that indicates the child
16 could benefit from cognitive behavioral therapy, other evidence-based
17 behavioral health programs, or substance use disorder treatment. Any
18 treatment recommended under this subsection shall be provided pursuant to
19 a contract between the Justice and Public Safety Cabinet and a behavioral
20 health services organization.

21 (b) The Justice and Public Safety Cabinet shall enter into a contract or
22 contracts with at least one (1):

23 1. Qualified mental health professional to provide the examination
24 required by paragraph (a) of this subsection; and

25 2. Behavioral health services organization that is accredited and
26 qualified to provide behavioral health treatment, including restorative
27 practices designed to hold the participant accountable to the victim for

1 any crime for which the participant has been found guilty, to provide
 2 the treatment required by paragraph (a) of this subsection.

3 (c) Behavioral health services organizations contracted pursuant to paragraph
 4 (b) of this subsection may utilize restorative practices if there is an identified
 5 victim, the participant has been found guilty of a crime, and, in the
 6 professional opinion of the behavioral health service provider, it is safe to
 7 do so.

8 (d) Any communication between a child detained pursuant to subsection (2) of
 9 this section and a qualified mental health professional during the course of
 10 the examination required by paragraph (a) of this subsection or a
 11 behavioral health service provider during the course of treatment required
 12 by paragraph (a) of this subsection shall be privileged under the Kentucky
 13 Rules of Evidence.

14 ~~(4)~~⁽²⁾ Within the period of detention described in ~~subsections~~^{subsection} (1) and
 15 (2) of this section, exclusive of weekends and holidays, a detention hearing shall be
 16 held by the judge or trial commissioner of the court for the purpose of determining
 17 whether the child shall be further detained. At the hearing held pursuant to this
 18 subsection, the court shall consider the nature of the offense, the child's background
 19 and history, and other information relevant to the child's conduct or condition.

20 ~~(5)~~⁽³⁾ If the court orders a child detained further, that detention shall be served as
 21 follows:

22 (a) If the child is charged with a capital offense, Class A felony, or Class B
 23 felony, detention shall occur in a secure juvenile detention facility pending the
 24 child's next court appearance subject to the court's review of the detention
 25 order prior to that court appearance;

26 (b) Except as provided in KRS 630.080(2), if it is alleged that the child is a status
 27 offender, the child may be detained in a secure juvenile detention facility for a

- 1 period not to exceed twenty-four (24) hours after which detention shall occur
2 in a nonsecure setting approved by the Department of Juvenile Justice
3 pending the child's next court appearance subject to the court's review of the
4 detention order prior to the next court appearance;
- 5 (c) If a status offender or a child alleged to be a status offender is charged with
6 violating a valid court order, the child may be detained in a secure juvenile
7 detention facility, or in a nonsecure setting approved by the Department of
8 Juvenile Justice, for a period not to exceed forty-eight (48) hours, exclusive of
9 weekends and holidays, pending the child's next court appearance;
- 10 (d) Prior to ordering a status offender or alleged status offender who is subject to
11 a valid court order securely detained because the child violated the valid court
12 order, the court shall:
- 13 1. Affirm that the requirements for a valid court order were met at the time
14 the original order was issued;
 - 15 2. Make a determination during the adjudicatory hearing that the child
16 violated the valid court order; and
 - 17 3. Within forty-eight (48) hours after the adjudicatory hearing on the
18 violation of a valid court order by the child, exclusive of weekends and
19 holidays, receive and review a written report prepared by an appropriate
20 public agency that reviews the behavior of the child and the
21 circumstances under which the child was brought before the court,
22 determines the reasons for the child's behavior, and determines whether
23 all dispositions other than secure detention have been exhausted or are
24 inappropriate. If a prior written report is included in the child's file, that
25 report shall not be used to satisfy this requirement. The child may be
26 securely detained for a period not to exceed forty-eight (48) hours,
27 exclusive of weekends and holidays, pending receipt and review of the

1 report by the court. The hearing shall be conducted in accordance with
2 ~~the provisions of~~ KRS 610.060. The findings required by this
3 subsection shall be included in any order issued by the court which
4 results in the secure or nonsecure detention of a status offender; and

5 (e) If the child is charged with a public offense, or contempt on a public offense,
6 and the county in which the case is before the court is served by a state
7 operated secure detention facility under the statewide detention plan, the child
8 shall be referred to the Department of Juvenile Justice for a security
9 assessment and placement in an approved detention facility or program
10 pending the child's next court appearance.

11 ~~(6)~~~~(4)~~ If, at the hearing conducted under subsection ~~(4)~~~~(2)~~ of this section, the court
12 conducts an adjudicatory hearing on the merits of a violation of a valid court order,
13 that hearing shall conform to the requirements of KRS 630.080.

14 ~~(7)~~~~(5)~~ If the detention hearing is not held as provided in subsection (1) of this
15 section, the child shall be released as provided in KRS 610.290.

16 ~~(8)~~~~(6)~~ If the child is not released, the court-designated worker shall notify the parent,
17 person exercising custodial control or supervision, a relative, guardian, or other
18 responsible adult, and the Department of Juvenile Justice or the cabinet, as
19 appropriate.

20 ➔Section 4. KRS 610.340 is amended to read as follows:

21 (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise,
22 all juvenile court records of any nature generated pursuant to KRS Chapters
23 600 to 645 by any agency or instrumentality, public or private, shall be
24 deemed to be confidential and shall not be disclosed except to the child,
25 parent, victims, or other persons authorized to attend a juvenile court hearing
26 pursuant to KRS 610.070 unless ordered by the court for good cause.

27 (b) Juvenile court records which contain information pertaining to arrests,

1 petitions, adjudications, and dispositions of a child may be disclosed to
2 victims or other persons authorized to attend a juvenile court hearing pursuant
3 to KRS 610.070.

4 (c) Release of the child's treatment, medical, mental, or psychological records is
5 prohibited unless presented as evidence in Circuit Court. Any records
6 resulting from the child's prior abuse and neglect under Title IV-E or Title IV-
7 B of the Federal Social Security Act shall not be disclosed to victims or other
8 persons authorized to attend a juvenile court hearing pursuant to KRS
9 610.070.

10 (d) Victim access under this subsection to juvenile court records shall include
11 access to records of adjudications that occurred prior to July 15, 1998.

12 (2) The provisions of this section shall not apply to public officers or employees
13 engaged in the investigation of and in the prosecution of cases under KRS Chapters
14 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained
15 pursuant to this subsection shall be used for official use only, shall not be disclosed
16 publicly, and shall be exempt from disclosure under the Open Records Act, KRS
17 61.870 to 61.884.

18 (3) The provisions of this section shall not apply to any peace officer, as defined in
19 KRS 446.010, who is engaged in the investigation or prosecution of cases under
20 KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any
21 record obtained pursuant to this subsection shall be used for official use only, shall
22 not be disclosed publicly, and shall be exempt from disclosure under the Open
23 Records Act, KRS 61.870 to 61.884.

24 (4) The provisions of this section shall not apply to employees of the Department of
25 Juvenile Justice or cabinet or its designees responsible for any services under KRS
26 Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS
27 Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised

1 Statutes.

2 (5) The provisions of this section shall not apply to records disclosed pursuant to KRS
3 610.320 or to public or private elementary and secondary school administrative,
4 transportation, and counseling personnel, to any teacher or school employee with
5 whom the student may come in contact, or to persons entitled to have juvenile
6 records under KRS 610.345, if the possession and use of the records is in
7 compliance with the provisions of KRS 610.345 and this section.

8 **(6) (a) The provisions of this section shall not apply to records or proceedings in**
9 **any case in which a child has made an admission to or been adjudicated for**
10 **a violent felony offense as defined in KRS 532.200 until the expiration of a**
11 **three (3) year period from the date of admission or adjudication.**

12 **(b) If the child has not received any additional public offense convictions**
13 **during the three (3) year period from the date of admission or adjudication,**
14 **all records in the case shall be automatically sealed and shall not be**
15 **disclosed consistent with the provisions of this section.**

16 **(c) As used in this subsection, "admission" means a formal admission in a**
17 **case, on the record, upon the waiving of an adjudication hearing.**

18 ~~(7)(6)~~ No person, including school personnel, shall disclose any confidential record
19 or any information contained therein except as permitted by this section or other
20 specific section of KRS Chapters 600 to 645, or except as permitted by specific
21 order of the court.

22 ~~(8)(7)~~ No person, including school personnel, authorized to obtain records pursuant
23 to KRS Chapters 600 to 645 shall obtain or attempt to obtain confidential records to
24 which he or she is not entitled or for purposes for which he or she is not permitted
25 to obtain them pursuant to KRS Chapters 600 to 645.

26 ~~(9)(8)~~ No person, including school personnel, not authorized to obtain records
27 pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records

1 which are made confidential pursuant to KRS Chapters 600 to 645 except upon
2 proper motion to a court of competent jurisdiction.

3 ~~(10)~~⁽⁹⁾ No person shall destroy or attempt to destroy any record required to be kept
4 pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to
5 KRS Chapters 600 to 645 and is authorized by the court upon proper motion and
6 good cause for the destruction being shown.

7 ~~(11)~~⁽¹⁰⁾ As used in this section the term "KRS Chapters 600 to 645" includes any
8 administrative regulations which are lawfully promulgated pursuant to KRS
9 Chapters 600 to 645.

10 ~~(12)~~⁽¹¹⁾ Nothing in this section shall be construed to prohibit a crime victim from
11 speaking publicly after the adjudication about his or her case on matters within his
12 or her knowledge or on matters disclosed to the victim during any aspect of a
13 juvenile court proceeding.

14 ➔Section 5. The Jefferson County Youth Detention Center shall be retrofitted to
15 increase the capacity of the center to 40 beds. The center shall be operated and owned by
16 the Commonwealth.

17 ➔Section 6. There is hereby appropriated General Fund moneys in the amount of
18 \$17,100,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for the
19 renovation of the Jefferson County Youth Detention Center, if the property is deeded to
20 the Commonwealth prior to July 1, 2023.

21 ➔Section 7. There is hereby appropriated General Fund moneys in the amount of
22 \$2,000,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for the
23 operating costs of the Jefferson County Youth Detention Center.

24 ➔Section 8. There is hereby appropriated General Fund moneys in the amount of
25 \$5,800,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for increased
26 transportation costs related to transporting youth.

27 ➔Section 9. There is hereby appropriated General Fund moneys in the amount of

1 \$9,600,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for additional
2 staffing needs at juvenile detention centers.

3 ➔Section 10. There is hereby appropriated General Fund moneys in the amount
4 of \$4,500,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for the
5 renovation of the Jefferson Regional Juvenile Detention Facility at Lyndon.

6 ➔Section 11. The Cabinet for Health and Family Services is directed to provide
7 youth in juvenile detention access to Medicaid benefits to the extent allowed by the
8 federal Centers for Medicare and Medicaid Services.