

1 AN ACT relating to children.

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

3 ➔Section 1. KRS 158.150 is amended to read as follows:

- 4 (1) All students admitted to the common schools shall comply with the lawful  
5 regulations for the government of the schools:
- 6 (a) Willful disobedience or defiance of the authority of the teachers or  
7 administrators, use of profanity or vulgarity, assault or battery or abuse of  
8 other students, the threat of force or violence, the use or possession of alcohol  
9 or drugs, stealing or destruction or defacing of school property or personal  
10 property of students, the carrying or use of weapons or dangerous instruments,  
11 or other incorrigible bad conduct on school property, as well as off school  
12 property at school-sponsored activities, constitutes cause for suspension or  
13 expulsion from school; and
- 14 (b) Assault or battery or abuse of school personnel; stealing or willfully or  
15 wantonly defacing, destroying, or damaging the personal property of school  
16 personnel on school property, off school property, or at school-sponsored  
17 activities constitutes cause for suspension or expulsion from school.
- 18 (2) (a) Each local board of education shall adopt a policy requiring the expulsion  
19 from school for a period of at least twelve (12) months for a student who:
- 20 1. Is determined by the board through clear and convincing evidence to  
21 have made threats that pose a danger to the well-being of students,  
22 faculty, or staff of the district;~~or~~
- 23 2. Is determined by the board to have brought a weapon to a school under  
24 its jurisdiction. In determining whether a student has brought a weapon  
25 to school, a local board of education shall use the definition of "unlawful  
26 possession of a weapon on school property" ***described***~~stated~~ in KRS  
27 ***527.070; or***

1           **3. Is in grade six (6) to twelve (12) and is determined by the board to**  
 2           **have recklessly, with a deadly weapon or dangerous instrument, or**  
 3           **intentionally caused or attempted to cause physical injury to a school**  
 4           **district employee on school property or at a school function under the**  
 5           **board's jurisdiction. In considering the actions of a student under this**  
 6           **subparagraph, a local board of education shall use the definitions of**  
 7           **"dangerous instrument," "deadly weapon," and "physical injury" in**  
 8           **KRS 500.080, and "intentionally" and "recklessly" in KRS 501.020.**

9           (b) The board shall also adopt a policy requiring disciplinary actions, up to and  
 10           including expulsion from school, for a student who is determined by the board  
 11           to have:

- 12           1. Possessed prescription drugs or controlled substances for the purpose of  
 13           sale or distribution at a school under the board's jurisdiction;
- 14           2. Physically assaulted, ~~for~~ battered, or abused **another student on school**  
 15           **property or at a school function**~~educational personnel or other students~~  
 16           ~~at a school or school function~~ under the board's jurisdiction; or
- 17           3. Physically assaulted, battered, or abused **school**~~educational~~ personnel  
 18           or other students off school property and the incident is likely to  
 19           substantially disrupt the educational process.

20           **(c) For purposes of this subsection, school personnel shall not include a**  
 21           **student who is employed by a school or enrolled in any school-based**  
 22           **apprenticeship program.**

23           (3) (a) The board may modify the expulsion requirement and length for students on a  
 24           case-by-case basis, except the length of expulsion shall be at least twelve (12)  
 25           months for a violation set forth in subsection (2)(a) of this section.

26           (b) ~~Nothing in~~ This section shall **not** prohibit a board from expelling a student  
 27           for longer than twelve (12) months.

1 (c) 1. A board that has expelled a student from the student's regular school  
2 setting shall provide or ensure that educational services are provided to  
3 the student in an appropriate alternative program or setting, unless the  
4 board has made a determination, on the record, supported by clear and  
5 convincing evidence, that the expelled student posed a threat to the  
6 safety of other students or school staff and could not be placed into  
7 an<sup>[a]</sup> appropriate alternative program or setting~~[state-funded agency~~  
8 ~~program]~~. Behavior which constitutes a threat shall include but not be  
9 limited to the physical assault, battery, or abuse of others; the threat of  
10 physical force; being under the influence of drugs or alcohol; the use,  
11 possession, sale, or transfer of drugs or alcohol; the carrying, possessing,  
12 or transfer of weapons or dangerous instruments; and any other behavior  
13 which may endanger the safety of others. Other intervention services as  
14 indicated for each student may be provided by the board or by  
15 agreement with the appropriate state or community agency. A state  
16 agency that provides the service shall be responsible for the cost.

17 2. For purposes of this paragraph, "appropriate alternative program or  
18 setting" means a program or setting that is not in the school building  
19 the student would otherwise attend, and includes but is not limited to a  
20 virtual program as defined in KRS 157.320 and a state-funded agency  
21 program.

22 3. Educational services provided to an expelled student under this  
23 paragraph shall not include transportation from the student's  
24 residence to, or returning from, an appropriate alternative program or  
25 setting.

26 4. An expelled student shall not participate in any school-sponsored  
27 extracurricular or interscholastic activity of the district while the

1                   *student is expelled.*

- 2           (d) 1. In lieu of expelling a student, or upon the expiration of a student's  
3                   expulsion, a superintendent may place a student into an alternative  
4                   program or setting if the superintendent determines placement of the  
5                   student in his or her regular school setting is likely to substantially  
6                   disrupt the education process or constitutes a threat to the safety of other  
7                   students or school staff. The action shall not be taken until the parent,  
8                   guardian, or other person having legal custody or control of the student  
9                   has had an opportunity to have a hearing before the board or an appeals  
10                  committee as described in subparagraph 2. of this paragraph.
- 11           2. The board may adopt a policy to establish an appeals committee and  
12                  delegate the authority to hear appeals made under this paragraph to that  
13                  committee.
- 14           3. The alternative program or setting may be provided virtually.
- 15           4. Notwithstanding any other statute or administrative regulation to the  
16                  contrary, students placed in an alternative program or setting under this  
17                  paragraph shall be counted in attendance and membership for state  
18                  funding purposes in the same manner as other students participating in  
19                  alternative programs of the district.
- 20           5. Students placed in an alternative program or setting under this paragraph  
21                  shall be subject to compulsory attendance requirements under KRS  
22                  Chapter 159 and applicable local board policy.
- 23           6. Following the initial alternative placement of a student under this  
24                  paragraph, the board shall review the alternative program or setting  
25                  placement at least once per year and determine if the placement should  
26                  be continued in accordance with subparagraph 1. of this paragraph.
- 27   (4) For purposes of this subsection, "charges" means substantiated behavior that falls

1 within the grounds for suspension or expulsion enumerated in subsection (1) of this  
2 section, including behavior committed by a student while enrolled in a private or  
3 public school, or in a school within another state. A school board may adopt a  
4 policy providing that, if a student is suspended or expelled for any reason or faces  
5 charges that may lead to suspension or expulsion but withdraws prior to a hearing  
6 from any public or private school in this or any other state, the receiving district  
7 may review the details of the charges, suspension, or expulsion and determine if the  
8 student will be admitted, and if so, what conditions may be imposed upon the  
9 admission, which may include placement of the student into an alternative program  
10 or setting as described in subsection (3)(d) of this section.

11 (5) (a) School administrators, teachers, or other school personnel may immediately  
12 remove or cause to be removed threatening or violent students from a  
13 classroom setting or from the district transportation system pending any  
14 further disciplinary action that may occur. Each board of education shall adopt  
15 a policy to assure the implementation of this section and to assure the safety  
16 of the students and staff.

17 (b) Except as described in subsection (10) of this section:

18 1. A principal may establish procedures for a student's removal from and  
19 reentry to the classroom when the student's behavior disrupts the  
20 classroom environment and education process or the student challenges  
21 the authority of a supervising adult. In addition to removal, the student  
22 shall be subject to further discipline for the behavior consistent with the  
23 school's code of conduct;[ ]

24 2. A student who is removed from the same classroom three (3) times  
25 within a thirty (30) day period shall be considered chronically disruptive  
26 and may be suspended from school in accordance with this section, and  
27 no other basis for suspension shall be deemed necessary;[ ]

- 1           3. At any time during the school year, for a student who has been removed  
2           from the classroom under this paragraph, a principal may require a  
3           review of the classroom issues with the teacher and the parent, guardian,  
4           or other person having legal custody or control of the student and  
5           determine a course of action for the teacher and student regarding the  
6           student's continued placement in the classroom;~~[-]~~
- 7           4. At any time during the school year, a principal may permanently remove  
8           a student from a classroom for the remainder of the school year if the  
9           principal determines the student's continued placement in the classroom  
10          will chronically disrupt the education process for other students;~~[-]~~
- 11          5. When a student is removed from a classroom under this paragraph  
12          temporarily or permanently, the principal shall determine the placement  
13          of the student in lieu of that classroom, which may include but is not  
14          limited to:
- 15           a. Another classroom in that school; or
- 16           b. An alternative program or setting, which may be provided  
17           virtually, as approved by the superintendent;~~[-]~~
- 18          6. Any permanent action by a principal under this paragraph shall be  
19          subject to an appeal process in accordance with a policy adopted by the  
20          board;and~~[-]~~
- 21          7. Policies compliant with this paragraph shall be included in the code of  
22          behavior and discipline adopted by the board of education under KRS  
23          158.148 and the policies adopted by the school council under KRS  
24          160.345.
- 25   (6) A student shall not be suspended from the common schools until after at least the  
26       following due process procedures have been provided:
- 27       (a) The student has been given oral or written notice of the charge or charges

1 against him or her which constitute cause for suspension;

2 (b) The student has been given an explanation of the evidence of the charge or  
3 charges if the student denies them; and

4 (c) The student has been given an opportunity to present his or her own version of  
5 the facts relating to the charge or charges.

6 These due process procedures shall precede any suspension from the common  
7 schools unless immediate suspension is essential to protect persons or property or to  
8 avoid disruption of the ongoing academic process. In such cases, the due process  
9 procedures outlined above shall follow the suspension as soon as practicable, but no  
10 later than three (3) school days after the suspension.

11 (7) (a) The superintendent, principal, assistant principal, or head teacher of any  
12 school may suspend a student but shall report the action in writing  
13 immediately to the superintendent and to the parent, guardian, or other person  
14 having legal custody or control of the student.

15 (b) 1. The board of education of any school district may expel or extend the  
16 expulsion of any student for misconduct as described in subsection (1)  
17 of this section, but the action shall not be taken until the parent,  
18 guardian, or other person having legal custody or control of the student  
19 has had an opportunity to have a hearing before the board. The decision  
20 of the board shall be final.

21 2. Within thirty (30) days prior to the end of a student's expulsion, the  
22 board shall review the details of the expulsion and current factors and  
23 circumstances, including if ending the expulsion will substantially  
24 disrupt the education process or constitute a threat to the safety of  
25 students or school staff, to determine if the expulsion shall be extended  
26 for a period not to exceed twelve (12) months.

27 3. The expulsion review process shall be used prior to the end of each

1                   expulsion period until the board ends the expulsion or the student is no  
2                   longer subject to compulsory attendance under KRS 159.010.

3                   4. Each board of education shall adopt a policy for implementation of the  
4                   process described in this paragraph.

5 (8) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be  
6                   considered a change of educational placement if:

7                   1. The child is removed for more than ten (10) consecutive days during a  
8                   school year; or

9                   2. The child is subjected to a series of removals that constitute a pattern  
10                  because the removals accumulate to more than ten (10) school days  
11                  during a school year and because of other factors, such as the length of  
12                  each removal, the total amount of time the child is removed, and the  
13                  proximity of removals to one another.

14                  (b) The admissions and release committee shall meet to review the placement and  
15                  make a recommendation for continued placement or a change in placement  
16                  and determine whether regular suspension or expulsion procedures apply.  
17                  Additional evaluations shall be completed, if necessary.

18                  (c) If the admissions and release committee determines that an exceptional child's  
19                  behavior is related to his or her disability, the child shall not be suspended any  
20                  further or expelled unless the current placement could result in injury to the  
21                  child, other children, or the educational personnel, in which case an  
22                  appropriate alternative placement shall be provided that will provide for the  
23                  child's educational needs and will provide a safe learning and teaching  
24                  environment for all. If the admissions and release committee determines that  
25                  the behavior is not related to the disability, the local educational agency may  
26                  pursue its regular suspension or expulsion procedure for the child, if the  
27                  behavior so warrants. However, educational services shall not be terminated

1 during a period of expulsion and during a suspension after a student is  
 2 suspended for more than a total of ten (10) days during a school year. A  
 3 district may seek temporary injunctive relief through the courts if the parent  
 4 and the other members of the admissions and release committee cannot agree  
 5 upon a placement and the current placement will likely result in injury to the  
 6 student or others.

7 (9) Suspension of primary school students shall be considered only in exceptional cases  
 8 where there are safety issues for the child or others.

9 (10) Any action under this section related to students with disabilities shall be in  
 10 compliance with applicable federal law.

11 (11) ~~Nothing in~~ This section shall ***not*** be interpreted or construed to preclude the  
 12 requirements contained in KRS 158.305 or 158.4416.

13 ➔Section 2. KRS 158.155 is amended to read as follows:

14 (1) Any school employee who knows or has reasonable cause to believe that a person  
 15 has made threats or plans of violence which are intended to target a school or  
 16 students or who knows that a firearm is present on school property in violation of  
 17 KRS 527.070 shall immediately cause a report to be made pursuant to subsection  
 18 (10) of this section.

19 (2) Any school employee shall immediately report pursuant to subsection (10) of this  
 20 section any act which the employee has a reasonable cause to believe has occurred  
 21 on school property or at a school-sponsored or sanctioned event involving:

22 (a) **Intentional physical injury, or intentional attempt to cause physical injury,**  
 23 **as defined in KRS 500.080, of any school employee;**

24 (b) **Intentional** assault resulting in serious physical injury, **as defined in KRS**  
 25 **500.080;**

26 (c)~~(b)~~ A sexual offense;

27 (d)~~(c)~~ Kidnapping;

- 1        ~~(e)~~~~(d)~~ Assault with the use of a weapon;
- 2        ~~(f)~~~~(e)~~ Possession of a firearm or deadly weapon in violation of the law;
- 3        ~~(g)~~~~(f)~~ The use, possession, or sale of a controlled substance in violation of the
- 4                law; or
- 5        ~~(h)~~~~(g)~~ **Intentional or wanton** damage to property **causing a pecuniary loss of**
- 6                **five hundred dollars (\$500) or more.**

7        (3) Any school employee who receives information from a student or other person of

8                conduct which is required to be reported under subsection (1) or (2) of this section

9                shall report the conduct pursuant to subsection (10) of this section, **unless the**

10                **school employee has cause to believe a student's disability interfered with his or**

11                **her ability to conform to the student code of conduct.**

12        (4) If a student has been adjudicated guilty of an offense specified in this subsection or

13                has been expelled from school for an offense specified in this subsection, prior to a

14                student's admission to any school, the parent, guardian, principal, or other person or

15                agency responsible for a student shall provide to the school a sworn statement or

16                affirmation indicating on a form provided by the Kentucky Board of Education that

17                the student has been adjudicated guilty or expelled from school attendance at a

18                public or private school in this state or another state for homicide, assault, or an

19                offense in violation of state law or school regulations relating to weapons, alcohol,

20                or drugs. The sworn statement or affirmation shall be sent to the receiving school

21                within five (5) working days of the time when the student requests enrollment in the

22                new school.

23        (5) If any student who has been expelled from attendance at a public or private school

24                in this state for homicide, assault, or an offense in violation of state law or school

25                regulations relating to weapons, alcohol, or drugs requests transfer of his **or her**

26                records, those records shall reflect the charges and final disposition of the expulsion

27                proceedings.

- 1 (6) If any student who is subject to an expulsion proceeding at a public or private  
 2 school in this state for homicide, assault, or an offense in violation of state law or  
 3 school regulations relating to weapons, alcohol, or drugs requests transfer of his or  
 4 her records to a new school, the records shall not be transferred until that  
 5 proceeding has been terminated and shall reflect the charges and any final  
 6 disposition of the expulsion proceedings.
- 7 (7) ~~Neither~~ The husband-wife privilege of KRE 504 or ~~nor~~ any professional-client  
 8 privilege, including those set forth in KRE 506 and 507, shall not be a ground for  
 9 refusing to make a report required under this section or for excluding evidence in a  
 10 judicial proceeding of the making of a report and of the conduct giving rise to the  
 11 making of a report. However, the attorney-client privilege of KRE 503 and the  
 12 religious privilege of KRE 505 are grounds for refusing to make a report or for  
 13 excluding evidence as to the report and the underlying conduct.
- 14 (8) ~~Nothing in~~ This section shall not be construed as to require self-incrimination.
- 15 (9) A person acting upon reasonable cause in the making of a report under this section  
 16 in good faith shall be immune from any civil or criminal liability that might  
 17 otherwise be incurred or imposed from:
- 18 (a) Making the report; and
- 19 (b) Participating in any judicial proceeding that resulted from the report.
- 20 (10) Notice required pursuant to this section shall be given to any law enforcement  
 21 agency created by the local board of education, and to:
- 22 (a) A local law enforcement agency not created by the local board of education;
- 23 or
- 24 (b) The Department of Kentucky State Police.}
- 25 ~~(11) Any person who intentionally violates the provisions of this section shall be~~  
 26 ~~guilty of a:~~
- 27 ~~(a) Class B misdemeanor for the first offense;~~

1       ~~(b) Class A misdemeanor for the second offense; and~~

2       ~~(c) Class D felony for the third or subsequent offense.]~~

3       ➔Section 3. KRS 158.990 is amended to read as follows:

4       (1) Any member of a school board who votes to permit entrance to a school of any  
5       child not eligible therefor under the provisions of KRS 158.030 shall be fined not  
6       less than five dollars (\$5) nor more than fifty dollars (\$50).

7       (2) Any person **who intentionally violates Section 2 of this Act shall be guilty of a:**

8       **(a) Class B misdemeanor for the first offense; and**

9       **(b) Class A misdemeanor for the second or subsequent offense**~~required to~~  
10       ~~report under KRS 158.155 who fails to report promptly or who refuses to~~  
11       ~~make a report is guilty of a Class A misdemeanor].~~

12       ➔Section 4. KRS 159.170 is amended to read as follows:

13       (1) Whenever any child of compulsory school age withdraws from school, the teacher  
14       of the **student**~~child~~ shall ascertain the reason. The fact of the withdrawal and the  
15       reason for it shall be immediately transmitted by the teacher to the superintendent  
16       of schools of the district in which the school is located. If the **student**~~child~~ has  
17       withdrawn because of change of residence, the next residence shall be ascertained  
18       and included in the report.

19       (2) The Kentucky Department of Education shall ensure that the student information  
20       system facilitates the collection of student data and the transfer of education records  
21       among schools and local districts.

22       (3) **Within five (5) days of a student being expelled under Section 1 of this Act, a**  
23       **school district shall enter the expulsion in the student's record within the student**  
24       **information system.**

25       **(4)** A school district shall notify the Kentucky Department of Education when a new  
26       student enrolls in a school in the district.

27       **(5)**~~(4)~~ The Kentucky Department of Education, upon notification of a student's

1 enrollment in a school, shall forward within ten (10) working days all records  
2 regarding the student collected under this section to the receiving district.