

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 physically assaulted, battered, or abused school personnel**
 3 **without just cause or provocation on school property or at a school**
 4 **function under the board's jurisdiction.**

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

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

16 **(c) For purposes of this subsection, school personnel does not include a student**
 17 **who is employed by a school or enrolled in any school-based apprenticeship**
 18 **program.**

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

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

24 (c) A board that has expelled a student from the student's regular school setting
 25 shall provide or ensure that educational services are provided to the student in
 26 an appropriate alternative program or setting, unless the board has made a
 27 determination, on the record, supported by clear and convincing evidence, that

1 the expelled student posed a threat to the safety of other students or school
2 staff and could not be placed into a state-funded agency program. Behavior
3 which constitutes a threat shall include but not be limited to the physical
4 assault, battery, or abuse of others; the threat of physical force; being under
5 the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs
6 or alcohol; the carrying, possessing, or transfer of weapons or dangerous
7 instruments; and any other behavior which may endanger the safety of others.
8 Other intervention services as indicated for each student may be provided by
9 the board or by agreement with the appropriate state or community agency. A
10 state agency that provides the service shall be responsible for the cost.

- 11 (d) 1. In lieu of expelling a student, or upon the expiration of a student's
12 expulsion, a superintendent may place a student into an alternative
13 program or setting if the superintendent determines placement of the
14 student in his or her regular school setting is likely to substantially
15 disrupt the education process or constitutes a threat to the safety of other
16 students or school staff. The action shall not be taken until the parent,
17 guardian, or other person having legal custody or control of the student
18 has had an opportunity to have a hearing before the board or an appeals
19 committee as described in subparagraph 2. of this paragraph.
- 20 2. The board may adopt a policy to establish an appeals committee and
21 delegate the authority to hear appeals made under this paragraph to that
22 committee.
- 23 3. The alternative program or setting may be provided virtually.
- 24 4. Notwithstanding any other statute or administrative regulation to the
25 contrary, students placed in an alternative program or setting under this
26 paragraph shall be counted in attendance and membership for state
27 funding purposes in the same manner as other students participating in

1 alternative programs of the district.

2 5. Students placed in an alternative program or setting under this paragraph
3 shall be subject to compulsory attendance requirements under KRS
4 Chapter 159 and applicable local board policy.

5 6. Following the initial alternative placement of a student under this
6 paragraph, the board shall review the alternative program or setting
7 placement at least once per year and determine if the placement should
8 be continued in accordance with subparagraph 1. of this paragraph.

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

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

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

27 1. A principal may establish procedures for a student's removal from and

- 1 reentry to the classroom when the student's behavior disrupts the
2 classroom environment and education process or the student challenges
3 the authority of a supervising adult. In addition to removal, the student
4 shall be subject to further discipline for the behavior consistent with the
5 school's code of conduct;[]
- 6 2. A student who is removed from the same classroom three (3) times
7 within a thirty (30) day period shall be considered chronically disruptive
8 and may be suspended from school in accordance with this section, and
9 no other basis for suspension shall be deemed necessary;[]
- 10 3. At any time during the school year, for a student who has been removed
11 from the classroom under this paragraph, a principal may require a
12 review of the classroom issues with the teacher and the parent, guardian,
13 or other person having legal custody or control of the student and
14 determine a course of action for the teacher and student regarding the
15 student's continued placement in the classroom;[]
- 16 4. At any time during the school year, a principal may permanently remove
17 a student from a classroom for the remainder of the school year if the
18 principal determines the student's continued placement in the classroom
19 will chronically disrupt the education process for other students;[]
- 20 5. When a student is removed from a classroom under this paragraph
21 temporarily or permanently, the principal shall determine the placement
22 of the student in lieu of that classroom, which may include but is not
23 limited to:
- 24 a. Another classroom in that school; or
25 b. An alternative program or setting, which may be provided
26 virtually, as approved by the superintendent;[]
- 27 6. Any permanent action by a principal under this paragraph shall be

1 subject to an appeal process in accordance with a policy adopted by the
2 board; ~~and~~;

3 7. Policies compliant with this paragraph shall be included in the code of
4 behavior and discipline adopted by the board of education under KRS
5 158.148 and the policies adopted by the school council under KRS
6 160.345.

7 (6) A student shall not be suspended from the common schools until after at least the
8 following due process procedures have been provided:

9 (a) The student has been given oral or written notice of the charge or charges
10 against him or her which constitute cause for suspension;

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

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

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

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

24 (b) 1. The board of education of any school district may expel or extend the
25 expulsion of any student for misconduct as described in subsection (1)
26 of this section, but the action shall not be taken until the parent,
27 guardian, or other person having legal custody or control of the student

1 has had an opportunity to have a hearing before the board. The decision
2 of the board shall be final.

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

9 3. The expulsion review process shall be used prior to the end of each
10 expulsion period until the board ends the expulsion or the student is no
11 longer subject to compulsory attendance under KRS 159.010.

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

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

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

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

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

27 (c) If the admissions and release committee determines that an exceptional child's

1 behavior is related to his or her disability, the child shall not be suspended any
2 further or expelled unless the current placement could result in injury to the
3 child, other children, or the educational personnel, in which case an
4 appropriate alternative placement shall be provided that will provide for the
5 child's educational needs and will provide a safe learning and teaching
6 environment for all. If the admissions and release committee determines that
7 the behavior is not related to the disability, the local educational agency may
8 pursue its regular suspension or expulsion procedure for the child, if the
9 behavior so warrants. However, educational services shall not be terminated
10 during a period of expulsion and during a suspension after a student is
11 suspended for more than a total of ten (10) days during a school year. A
12 district may seek temporary injunctive relief through the courts if the parent
13 and the other members of the admissions and release committee cannot agree
14 upon a placement and the current placement will likely result in injury to the
15 student or others.

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

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

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

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

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

- 1 (2) Any school employee shall immediately report pursuant to subsection (10) of this
2 section any act which the employee has a reasonable cause to believe has occurred
3 on school property or at a school-sponsored or sanctioned event involving:
- 4 (a) **Intentional assault or intentional attempted assault of any school employee;**
5 (b) **Intentional** assault resulting in serious physical injury;
6 (c)~~(b)~~ A sexual offense;
7 (d)~~(c)~~ Kidnapping;
8 (e)~~(d)~~ Assault with the use of a weapon;
9 (f)~~(e)~~ Possession of a firearm or deadly weapon in violation of the law;
10 (g)~~(f)~~ The use, possession, or sale of a controlled substance in violation of the
11 law; or
12 (h)~~(g)~~ Damage to property.
- 13 (3) Any school employee who receives information from a student or other person of
14 conduct which is required to be reported under subsection (1) or (2) of this section
15 shall report the conduct pursuant to subsection (10) of this section, **unless the**
16 **school employee has cause to believe a student's disability interfered with his or**
17 **her ability to conform to the student code of conduct.**
- 18 (4) If a student has been adjudicated guilty of an offense specified in this subsection or
19 has been expelled from school for an offense specified in this subsection, prior to a
20 student's admission to any school, the parent, guardian, principal, or other person or
21 agency responsible for a student shall provide to the school a sworn statement or
22 affirmation indicating on a form provided by the Kentucky Board of Education that
23 the student has been adjudicated guilty or expelled from school attendance at a
24 public or private school in this state or another state for homicide, assault, or an
25 offense in violation of state law or school regulations relating to weapons, alcohol,
26 or drugs. The sworn statement or affirmation shall be sent to the receiving school
27 within five (5) working days of the time when the student requests enrollment in the

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

1 (a) A local law enforcement agency not created by the local board of education;
2 or

3 (b) The Department of Kentucky State Police.}

4 ~~(11) Any person who intentionally violates the provisions of this section shall be~~
5 ~~guilty of a:~~

6 ~~(a) Class B misdemeanor for the first offense;~~

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

8 ~~(c) Class D felony for the third or subsequent offense.}~~

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

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

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

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

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