

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 200 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Behavioral assessment" means an evaluation of a child by a clinical
7 professional, which may occur in person, remotely, or through the review of
8 clinical records;

9 (b) "Clinical professional" means a licensed clinician employed by, or
10 associated with, an inpatient psychiatric hospital or pediatric teaching
11 hospital, who is qualified to make a clinical determination whether a child
12 meets criteria for admission to an inpatient psychiatric hospital or pediatric
13 teaching hospital for inpatient psychiatric care;

14 (c) "Department" means the Department for Behavioral Health,
15 Developmental and Intellectual Disabilities;

16 (d) "High acuity youth" means a child who has been determined by a clinical
17 professional, following a behavioral assessment, to need an environment
18 and specialized treatment capable of addressing manifest aggression,
19 violence toward persons, or property destruction;

20 (e) "Inpatient psychiatric hospital" means a hospital, other than a state mental
21 hospital, that is licensed pursuant to KRS Chapter 216B to provide inpatient
22 psychiatric services; and

23 (f) "Pediatric teaching hospital" has the same meaning as in KRS 205.565.

24 (2) A child who is charged with a public offense or subject to a court order to receive
25 inpatient psychiatric treatment pursuant to the Kentucky Unified Juvenile Code
26 shall, prior to being admitted to an inpatient psychiatric hospital or pediatric
27 teaching hospital, undergo a behavioral assessment by a clinical professional to

1 determine whether the child qualifies as a high acuity youth.

2 (3) (a) If a clinical professional determines that the child qualifies as a high acuity
3 youth following a behavioral assessment, the clinical professional shall
4 contact the:

5 1. Designated representative of the department or other designated
6 representative of the cabinet; and

7 2. Designated representative of the Department of Juvenile Justice;
8 to discuss the immediate treatment plan for the child.

9 (b) The clinical professional shall prepare an affidavit, with any documents in
10 support of the affidavit, for submission to the department, the Department
11 of Juvenile Justice, and the court. The affidavit shall include:

12 1. A summary of the clinical evidence that the clinical professional relied
13 upon for the determination that the child qualifies as a high acuity
14 youth;

15 2. A recommendation of the appropriate location for any recommended
16 treatment services for the high acuity youth and the basis for the
17 recommendation, based upon the child's needs and the capabilities of
18 the inpatient psychiatric hospital or pediatric teaching hospital, or
19 whether treatment on an outpatient basis may be provided at a
20 detention facility for a child in the custody of the Department of
21 Juvenile Justice or at a location specified by the department if the
22 child is in the custody of the cabinet; and

23 3. Contact information from the inpatient psychiatric hospital or
24 pediatric teaching hospital for one (1) or more clinical professionals
25 who can provide the types of services for the high acuity youth at a
26 detention facility or location designated by the department if it is
27 determined in the best interests of the child that the child should

1 receive psychiatric services other than inpatient treatment services.

2 (4) (a) If the representative of the department and the representative of the
3 Department of Juvenile Justice agree with the recommendations of the
4 clinical professional, a conference affidavit establishing an initial treatment
5 plan shall be submitted to the court on a form provided by the
6 Administrative Office of the Courts within twenty-four (24) hours of the
7 delivery of the initial affidavit under subsection (3) of this section.

8 (b) If the representative of the department and the representative of the
9 Department of Juvenile Justice do not agree to the treatment
10 recommendations of the clinical professional, either party or both parties
11 shall submit an affidavit of dissent to the court on a form provided by the
12 Administrative Office of the Courts that states the clinical basis for the
13 objection, and may include a recommendation for an alternate plan, facility,
14 or assessment. The dissenting affidavit shall be signed by a physician who
15 can speak directly to the clinical basis for submitting the dissenting
16 affidavit.

17 (5) Following submission of a conference affidavit or an affidavit of dissent, the
18 court shall enter an order regarding the course of treatment or may schedule a
19 hearing to determine a treatment plan for the high acuity youth.

20 (6) Notwithstanding any other law to the contrary, the court shall not order a high
21 acuity youth for inpatient treatment within an inpatient psychiatric hospital or
22 pediatric teaching hospital without agreement of the hospital, the department,
23 and the Department of Juvenile Justice unless the court determines by clear and
24 convincing evidence that the inpatient psychiatric hospital or pediatric teaching
25 hospital has the resources and capabilities to treat the high acuity youth in a
26 manner that does not pose a danger to the high acuity youth or the hospital's
27 patients and staff. This subsection shall not be construed to require an inpatient

1 psychiatric hospital or pediatric teaching hospital to admit a child if doing so
2 would be in violation of federal law.

3 (7) (a) If the treatment plan approved or ordered by the court involves the
4 admission of a high acuity youth to an inpatient psychiatric hospital or
5 pediatric teaching hospital, then the provision of inpatient services by the
6 inpatient psychiatric hospital or pediatric teaching hospital shall be
7 reimbursed by the Department of Medicaid Services at no less than two
8 hundred percent (200%) of the then current inpatient psychiatric hospital's
9 or pediatric teaching hospital's Medicaid inpatient rate to account for the
10 acuity and intensity of health care items and services necessary for
11 treatment of high acuity youth, the provisions of KRS 202A.271
12 notwithstanding.

13 (b) For any admission under this subsection, the inpatient psychiatric hospital
14 or pediatric teaching hospital shall provide:

- 15 1. An updated treatment plan in addition to the initial treatment plan, if
16 needed, within ten (10) days from the filing of the initial affidavit; and
- 17 2. Status reports to the department or the Department of Juvenile
18 Justice, as applicable, upon request or as ordered by the court.

19 (c) Any dispute that arises between the inpatient psychiatric hospital or
20 pediatric teaching hospital, the department, and the Department of Juvenile
21 Justice shall be resolved in the manner provided in subsections (3), (4), and
22 (5) of this section, and any party may request court review at any time
23 during the period of treatment.

24 (8) (a) If a high acuity youth is admitted to an inpatient psychiatric hospital or
25 pediatric teaching hospital for treatment pursuant to a court order issued
26 under this section, and the high acuity youth commits an act of violence or
27 incites violence against any of the hospital's patients, staff, or visitors, the

1 inpatient psychiatric hospital or pediatric teaching hospital may file an
2 affidavit with the department or other designated representative of the
3 cabinet, or the Department of Juvenile Justice, as applicable, and with the
4 court, and the youth shall be:

5 1. Discharged from the hospital; and

6 2. Immediately returned by the department or the Department of
7 Juvenile Justice, as applicable, to the youth's last place of custody or
8 residence unless another location is ordered by the court.

9 (b) This subsection shall not preclude any person from filing a complaint in
10 reference to the youth pursuant to KRS 610.020.

11 (9) If the treatment plan approved or ordered by the court involves the provision of
12 outpatient psychiatric services to the high acuity youth at the location of a
13 detention facility, then the department or the Department of Juvenile Justice may
14 contract with an inpatient psychiatric hospital or pediatric teaching hospital to
15 provide the outpatient psychiatric services. The inpatient psychiatric hospital or
16 pediatric teaching hospital shall be reimbursed by the Department for Medicaid
17 Services for such outpatient psychiatric services at no less than one hundred fifty
18 percent (150%) of the then current inpatient psychiatric hospital's or pediatric
19 teaching hospital's Medicaid reimbursement rate as if such services had been
20 performed in an inpatient setting, the provisions of KRS 202A.271
21 notwithstanding.

22 (10) Each inpatient psychiatric hospital or pediatric teaching hospital that accepts any
23 high acuity youth under this section, the cabinet, the department, the Department
24 of Juvenile Justice, and the Court of Justice shall adopt and provide a protocol
25 for twenty-four (24) hour access to comply with the requirements of this section.

26 (11) When a high acuity youth has received residential treatment and the treatment
27 has improved the youth's condition to a status that the need for continued

1 treatment at that facility is no longer medically indicated as determined by the
2 treating physician:

3 (a) If the youth has a need for the continuum of care on an inpatient basis in
4 an inpatient psychiatric hospital, pediatric teaching hospital, or other
5 inpatient facility equipped to treat a high acuity youth, the Department for
6 Juvenile Justice, the department, and a representative of the inpatient
7 psychiatric hospital, pediatric teaching hospital, or other inpatient facility to
8 which the youth may be transferred shall proceed in accordance with
9 subsections (3), (4), and (5) of this section;

10 (b) Any additional medical care that the youth may need as part of a continuum
11 of care that requires a transfer to another facility for treatment shall also
12 proceed in accordance with subsections (3), (4), and (5) of this section; and

13 (c) As part of the continuum of care, the same representatives from the
14 department and the Department of Juvenile Justice who have evaluated and
15 provided treatment and recommendations for the youth shall, to the extent
16 possible, continue to review the medical treatment of the youth to provide
17 stability of care with the goal of improving the life and health of the youth.

18 (12) In the event a child is delivered to an inpatient psychiatric hospital or pediatric
19 teaching hospital for a behavioral assessment without referral by the department,
20 the cabinet, or the Department of Juvenile Justice, the clinical professional may
21 present the affidavit referenced in subsection (3) of this section to a law
22 enforcement officer, a court-designated worker, or a detention alternative
23 coordinator who shall then return the high acuity youth to the custody of the
24 custodial agency until such time as a court issues further orders regarding the
25 appropriate treatment for the high acuity youth. The inpatient psychiatric
26 hospital or pediatric teaching hospital shall then proceed according to
27 subsections (3), (4), and (5) of this section.

1 ➔ Section 2. KRS 15A.305 is amended to read as follows:

2 (1) (a) The Department of Juvenile Justice shall~~[- develop and]~~ administer a
3 statewide~~[- detention]~~ program that shall include both preadjudication and
4 postadjudication facilities for the detention and treatment of children. The
5 department shall determine the appropriate physical security for each
6 facility.

7 (b) The facilities shall include:

8 1. Facilities for detention;

9 2. Youth development centers;

10 3. Group homes;

11 4. Alternatives to secure detention; and

12 5. A mental health facility for the treatment of high acuity youth as
13 defined in Section 1 of this Act, licensed under KRS Chapter 216B,
14 which shall be a residential treatment facility;

15 as those terms are defined in Section 3 of this Act.

16 (c) The department shall provide alternatives to secure detention for children
17 charged with~~[- and, as each regional facility is constructed and ready for~~
18 ~~occupancy, shall provide for:~~

19 ~~(a) The operation of preadjudication detention facilities for children charged with~~
20 ~~public offenses; and~~

21 ~~(b) The operation of postadjudication detention facilities for children adjudicated~~
22 ~~delinquent or found guilty of] public offenses~~ as provided in subsection (2) of
23 this section.

24 (2) In each region in which the department currently~~[- Department of Juvenile Justice]~~
25 operates or contracts for the operation of a detention facility, or operates or
26 contracts for the operation of a detention facility in the future, the department
27 shall develop and administer a program for alternatives to secure detention that

1 shall provide for:

2 (a) The operation of or contracting for the operation of preadjudication
3 alternatives to secure detention and follow-up programs for juveniles who are
4 before the court or who enter pretrial diversion or informal adjustment
5 programs; and

6 (b) The operation of or contracting for the operation of postadjudication
7 alternatives to secure detention and follow-up programs, including but not
8 limited to community-based programs, mentoring, counseling, and other
9 programs designed to limit the unnecessary use of secure detention and ensure
10 public safety.

11 (3) *The department shall operate:*

12 *(a) 1. At least two (2) female-only detention facilities for female offenders,*
13 *one (1) located in the central region of the state and one (1) located in*
14 *the western region of the state, which shall safely segregate violent*
15 *offenders as defined in KRS 439.3401 from nonviolent offenders.*

16 *2. The number of female-only detention facilities may be increased to*
17 *three (3) facilities if an analysis of the female population exceeds the*
18 *capacity of the two (2) original facilities. The location of any third*
19 *facility under this subparagraph shall be in the northern or eastern*
20 *region of the state, with the precise location to be determined based*
21 *upon an analysis of population of female offenders in detention*
22 *facilities at the time according to the county of residence of the*
23 *offenders.*

24 *3. Any additional detention facilities shall segregate violent offenders as*
25 *defined in KRS 439.3401 from nonviolent offenders; and*

26 *(b) For male offenders, a regional model of juvenile detention facilities which*
27 *shall safely segregate violent offenders as defined in KRS 439.3401 from*

1 *nonviolent offenders.*

2 *(4) The department may reassign where a particular child shall be housed based on*
3 *safety or security concerns, staffing needs, and classification.*

4 *(5)* The department shall develop and implement a system to immediately notify the
5 Cabinet for Health and Family Services when a status offender or child alleged to
6 be a status offender has been detained for the alleged violation of a valid court
7 order.

8 ~~(6)~~*(4)* The department ~~shall~~*may*, except as provided in KRS 635.060, charge
9 counties, *charter county governments, unified local governments,* consolidated
10 local governments, and urban-county governments a per diem *rate set by*
11 *administrative regulation promulgated in accordance with KRS Chapter 13A*~~not~~
12 ~~to exceed ninety four dollars (\$94)~~ for lodging juveniles in state-owned or
13 contracted facilities.

14 ~~(7)~~*(5)* Detention rates charged by contracting detention facilities shall not exceed the
15 rate in effect on July 1, 1997, subject to increases approved by the department.

16 ~~(8)~~*(6)* No juvenile detention facility, as defined in KRS 15A.200, shall be taken
17 over, purchased, or leased by the Commonwealth without prior approval of the
18 fiscal court *or legislative body of the county* upon consultation with the jailer in the
19 county where the facility is located. The county, upon consultation with the jailer,
20 may enter into contracts with the Commonwealth for the holding, detention, and
21 transportation of juveniles.

22 ~~(9)~~*(7)* *(a)* The ~~department~~*Department of Juvenile Justice* shall enter into
23 sufficient contracts to ensure the availability of institutional treatment for
24 children with severe emotional disturbance or mental illness as soon as
25 practicable.

26 *(b) The department may contract with one (1) or more inpatient psychiatric*
27 *hospitals, pediatric teaching hospitals, or other behavioral health providers*

1 to provide outpatient behavioral health services to children in need of those
2 services while in a detention facility.

3 ~~(10)~~~~(8)~~ The department~~[Department of Juvenile Justice]~~ shall, for any facility
4 operated pursuant to subsection (1) of this section, require that the facility:

- 5 (a) Provide children in crisis who are residing in a juvenile~~[detention]~~ facility
6 access to a mental health professional whose communications with the child
7 are privileged under the Kentucky Rules of Evidence;
- 8 (b) Conduct monthly documented training related to emergency response;
- 9 (c) Ensure that appropriate staff working with a child in a secure juvenile
10 detention facility or a residential treatment facility~~[detained youth]~~ have
11 controlled access to, and are properly trained in the use of, appropriate
12 defensive equipment comparable to that utilized by the Department of
13 Corrections, including tasers, pepper spray, and shields;
- 14 (d) Establish a specially trained emergency response team within each juvenile
15 detention center and youth development center which shall be trained in
16 tactics related to emergency response~~[detention facilities]~~ and engage in
17 monthly drills as part of emergency response training;
- 18 (e) Enter into a memorandum of understanding with local law enforcement for
19 emergency response and include these agencies in emergency response
20 trainings;
- 21 (f) Be equipped with an alarm that directly communicates an emergency situation
22 to the local dispatch center; and
- 23 (g) Promulgate administrative regulations in accordance with KRS Chapter 13A
24 to implement this subsection.

25 ➔Section 3. KRS 600.020 is amended to read as follows:

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

- 27 (1) "Abused or neglected child" means a child whose health or welfare is harmed or

1 threatened with harm when:

2 (a) His or her parent, guardian, person in a position of authority or special trust,
3 as defined in KRS 532.045, or other person exercising custodial control or
4 supervision of the child:

- 5 1. Inflicts or allows to be inflicted upon the child physical or emotional
6 injury as defined in this section by other than accidental means;
- 7 2. Creates or allows to be created a risk of physical or emotional injury as
8 defined in this section to the child by other than accidental means;
- 9 3. Engages in a pattern of conduct that renders the parent incapable of
10 caring for the immediate and ongoing needs of the child, including but
11 not limited to parental incapacity due to a substance use disorder as
12 defined in KRS 222.005;
- 13 4. Continuously or repeatedly fails or refuses to provide essential parental
14 care and protection for the child, considering the age of the child;
- 15 5. Commits or allows to be committed an act of sexual abuse, sexual
16 exploitation, or prostitution upon the child;
- 17 6. Creates or allows to be created a risk that an act of sexual abuse, sexual
18 exploitation, or prostitution will be committed upon the child;
- 19 7. Abandons or exploits the child;
- 20 8. Does not provide the child with adequate care, supervision, food,
21 clothing, shelter, and education or medical care necessary for the child's
22 well-being when financially able to do so or offered financial or other
23 means to do so. A parent or other person exercising custodial control or
24 supervision of the child legitimately practicing the person's religious
25 beliefs shall not be considered a negligent parent solely because of
26 failure to provide specified medical treatment for a child for that reason
27 alone. This exception shall not preclude a court from ordering necessary

- 1 medical services for a child;
- 2 9. Fails to make sufficient progress toward identified goals as set forth in
- 3 the court-approved case plan to allow for the safe return of the child to
- 4 the parent that results in the child remaining committed to the cabinet
- 5 and remaining in foster care for fifteen (15) cumulative months out of
- 6 forty-eight (48) months; or
- 7 10. Commits or allows female genital mutilation as defined in KRS 508.125
- 8 to be committed; or
- 9 (b) A person twenty-one (21) years of age or older commits or allows to be
- 10 committed an act of sexual abuse, sexual exploitation, or prostitution upon a
- 11 child less than sixteen (16) years of age;
- 12 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
- 13 675(11);
- 14 (3) "Aggravated circumstances" means the existence of one (1) or more of the
- 15 following conditions:
- 16 (a) The parent has not attempted or has not had contact with the child for a period
- 17 of not less than ninety (90) days;
- 18 (b) The parent is incarcerated and will be unavailable to care for the child for a
- 19 period of at least one (1) year from the date of the child's entry into foster care
- 20 and there is no appropriate relative placement available during this period of
- 21 time;
- 22 (c) The parent has sexually abused the child and has refused available treatment;
- 23 (d) The parent has been found by the cabinet to have engaged in abuse of the
- 24 child that required removal from the parent's home two (2) or more times in
- 25 the past two (2) years; or
- 26 (e) The parent has caused the child serious physical injury;
- 27 (4) "Alternative to secure detention" means any program that provides a less

restrictive environment than a secure juvenile detention facility, is operated by or contracted through the Department of Juvenile Justice, and is approved for use pursuant to Section 2 of this Act;

(5) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(6)~~(5)~~ "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

(7)~~(6)~~ "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(8)~~(7)~~ "Cabinet" means the Cabinet for Health and Family Services;

(9)~~(8)~~ "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(10)~~(9)~~ "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;

(11)~~(10)~~ "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one

1 certified by an appropriate agency as operated primarily for educational or medical
2 purposes, providing residential care on a twenty-four (24) hour basis to children not
3 related by blood, adoption, or marriage to the person maintaining the facility;

4 (12)~~[(11)]~~ "Child-placing agency" means any agency, other than a state agency, which
5 supervises the placement of children in foster family homes or child-caring
6 facilities or which places children for adoption;{

7 ~~(12) "Clinical treatment facility" means a facility with more than eight (8) beds
8 designated by the Department of Juvenile Justice or the cabinet for the treatment of
9 mentally ill children. The treatment program of such facilities shall be supervised
10 by a qualified mental health professional;}~~

11 (13) "Commitment" means an order of the court which places a child under the custodial
12 control or supervision of the Cabinet for Health and Family Services, Department
13 of Juvenile Justice, or another facility or agency until the child attains the age of
14 eighteen (18) unless otherwise provided by law;

15 ~~(14) [{"Community based facility" means any nonsecure, homelike facility licensed,
16 operated, or permitted to operate by the Department of Juvenile Justice or the
17 cabinet, which is located within a reasonable proximity of the child's family and
18 home community, which affords the child the opportunity, if a Kentucky resident,
19 to continue family and community contact;~~

20 ~~(15) -~~ "Complaint" means a verified statement setting forth allegations in regard to the
21 child which contain sufficient facts for the formulation of a subsequent petition;

22 (15)~~[(16)]~~ "Court" means the juvenile session of District Court unless a statute specifies
23 the adult session of District Court or the Circuit Court;

24 (16)~~[(17)]~~ "Court-designated worker" means that organization or individual delegated by
25 the Administrative Office of the Courts for the purposes of placing children in
26 alternative placements prior to arraignment, conducting preliminary investigations,
27 and formulating, entering into, and supervising diversion agreements and

1 performing such other functions as authorized by law or court order;

2 ~~(17)~~~~(18)~~ "Deadly weapon" has the same meaning as it does in KRS 500.080;

3 ~~(18)~~~~(19)~~ "Department" means the Department for Community Based Services;

4 ~~(19)~~~~(20)~~ "Dependent child" means any child, other than an abused or neglected child,
5 who is under improper care, custody, control, or guardianship that is not due to an
6 intentional act of the parent, guardian, or person exercising custodial control or
7 supervision of the child;

8 ~~(20)~~~~(21)~~ "Detention" means the safe and temporary ~~housing~~~~[custody]~~ of a juvenile
9 who is accused of conduct subject to the jurisdiction of the court who requires a
10 restricted or closely supervised environment for his or her own or the community's
11 protection;

12 ~~(21)~~~~(22)~~ "Detention hearing" means a hearing held by a judge or trial commissioner
13 within twenty-four (24) hours, exclusive of weekends and holidays, of the start of
14 any period of detention prior to adjudication;

15 ~~(22)~~~~(23)~~ "Diversion agreement" means a mechanism designed to hold a child
16 accountable for his or her behavior and, if appropriate, securing services to serve
17 the best ~~interests~~~~[interest]~~ of the child and to provide redress for that behavior
18 without court action and without the creation of a formal court record;

19 ~~(23)~~~~(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 ~~(24)~~~~(25)~~ "Emergency shelter" is a group home, private residence, foster home, or
26 similar homelike facility which provides temporary or emergency care of children
27 and adequate staff and services consistent with the needs of each child;

- 1 ~~(25)~~~~(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 ~~(26)~~~~(27)~~ "Evidence-based practices" means policies, procedures, programs, and
7 practices proven by scientific research to reliably produce reductions in recidivism;
- 8 ~~(27)~~~~(28)~~ "Fictive kin" means an individual who is not related by birth, adoption, or
9 marriage to a child, but who has an emotionally significant relationship with the
10 child, or an emotionally significant relationship with a biological parent, siblings, or
11 half-siblings of the child in the case of a child from birth to twelve (12) months of
12 age, prior to placement;
- 13 ~~(28)~~~~(29)~~ "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 14 ~~(29)~~~~(30)~~ "Foster family home" means a private home in which children are placed for
15 foster family care under supervision of the cabinet or a licensed child-placing
16 agency;
- 17 ~~(30)~~~~(31)~~ "Graduated sanction" means any of a continuum of accountability measures,
18 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
19 that may include but are not limited to:
- 20 (a) Electronic monitoring;
 - 21 (b) Drug and alcohol screening, testing, or monitoring;
 - 22 (c) Day or evening reporting centers;
 - 23 (d) Reporting requirements;
 - 24 (e) Community service; and
 - 25 (f) Rehabilitative interventions such as family counseling, substance abuse
26 treatment, restorative justice programs, and behavioral or mental health
27 treatment;

1 **(31) "Group home" means a community-based and homelike residential treatment**
2 **facility for committed youth operated by the Department of Juvenile Justice;**

3 (32) "Habitual runaway" means any child who has been found by the court to have been
4 absent from his or her place of lawful residence without the permission of his or her
5 custodian for at least three (3) days during a one (1) year period;

6 (33) "Habitual truant" means any child who has been found by the court to have been
7 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a
8 one (1) year period;

9 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
10 public facility, health care facility, or part thereof, which is approved by the cabinet
11 to treat children;

12 (35) "Independent living" means those activities necessary to assist a committed child to
13 establish independent living arrangements;

14 (36) "Informal adjustment" means an agreement reached among the parties, with
15 consultation, but not the consent, of the victim of the crime or other persons
16 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
17 after a petition has been filed, which is approved by the court, that the best
18 ~~interests~~^{interest} of the child would be served without formal adjudication and
19 disposition;

20 (37) "Intentionally" means, with respect to a result or to conduct described by a statute
21 which defines an offense, that the actor's conscious objective is to cause that result
22 or to engage in that conduct;

23 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
24 the program developed on the child's behalf is no more harsh, hazardous, or
25 intrusive than necessary; or involves no restrictions on physical movements nor
26 requirements for residential care except as reasonably necessary for the protection
27 of the child from physical injury; or protection of the community, and is conducted

1 at the suitable available facility closest to the child's place of residence to allow for
2 appropriate family engagement;

3 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
4 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

5 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
6 serious or critical condition;

7 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;

8 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and
9 who has not been otherwise charged with a status or public offense;

10 (43) ~~"Nonsecure facility" means a facility which provides its residents access to the~~
11 ~~surrounding community and which does not rely primarily on the use of physically~~
12 ~~restricting construction and hardware to restrict freedom;~~

13 (44) ~~"Nonsecure setting" means a nonsecure facility or a residential home, including a~~
14 ~~child's own home, where a child may be temporarily placed pending further court~~
15 ~~action. Children before the court in a county that is served by a state operated~~
16 ~~secure detention facility, who are in the detention custody of the Department of~~
17 ~~Juvenile Justice, and who are placed in a nonsecure alternative by the Department~~
18 ~~of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;~~

19 (45) ~~"Out-of-home placement":~~

20 (a) Means a placement other than in the home of a parent, relative, or guardian, in
21 a boarding home, ~~clinical~~ treatment facility, ~~community based facility~~,
22 detention facility, emergency shelter, fictive kin home, foster family home,
23 hospital, secure juvenile detention ~~nonsecure facility, physically secure~~
24 facility, residential treatment facility, or ~~youth~~ alternative to secure
25 detention program; and ~~center~~

26 (b) Does not include a placement paid for by a parent, relative, or guardian;

27 (44) ~~(46)~~ "Parent" means the biological or adoptive mother or father of a child;

1 ~~(45)~~~~[(47)]~~ "Person exercising custodial control or supervision" means a person or agency
2 that has assumed the role and responsibility of a parent or guardian for the child, but
3 that does not necessarily have legal custody of the child;

4 ~~(46)~~~~[(48)]~~ "Petition" means a verified statement, setting forth allegations in regard to the
5 child, which initiates formal court involvement in the child's case;

6 ~~(47)~~~~[(49)]~~ "Physical injury" means substantial physical pain or any impairment of
7 physical condition;{

8 ~~(50) "Physically secure facility" means a facility that relies primarily on the use of~~
9 ~~construction and hardware such as locks, bars, and fences to restrict freedom;}~~

10 ~~(48)~~~~[(51)]~~ "Public offense action" means an action, excluding contempt, brought in the
11 interest of a child who is accused of committing an offense under KRS Chapter 527
12 or a public offense which, if committed by an adult, would be a crime, whether the
13 same is a felony, misdemeanor, or violation, other than an action alleging that a
14 child sixteen (16) years of age or older has committed a motor vehicle offense;

15 ~~(49)~~~~[(52)]~~ "Qualified mental health professional" means:

16 (a) A physician licensed under the laws of Kentucky to practice medicine or
17 osteopathy, or a medical officer of the government of the United States while
18 engaged in the performance of official duties;

19 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
20 osteopathy, or a medical officer of the government of the United States while
21 engaged in the practice of official duties, and who is certified or eligible to
22 apply for certification by the American Board of Psychiatry and Neurology,
23 Inc.;

24 (c) A psychologist with the health service provider designation, a psychological
25 practitioner, a certified psychologist, or a psychological associate licensed
26 under the provisions of KRS Chapter 319;

27 (d) A licensed registered nurse with a master's degree in psychiatric nursing from

1 an accredited institution and two (2) years of clinical experience with
2 mentally ill persons, or a licensed registered nurse with a bachelor's degree in
3 nursing from an accredited institution who is certified as a psychiatric and
4 mental health nurse by the American Nurses Association and who has three
5 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
6 and who is currently employed by a hospital or forensic psychiatric facility
7 licensed by the Commonwealth or a psychiatric unit of a general hospital, a
8 private agency or company engaged in providing mental health services, or a
9 regional comprehensive care center;

10 (e) A licensed clinical social worker licensed under the provisions of KRS
11 335.100, or a certified social worker licensed under the provisions of KRS
12 335.080 with three (3) years of inpatient or outpatient clinical experience in
13 psychiatric social work and currently employed by a hospital or forensic
14 psychiatric facility licensed by the Commonwealth, a psychiatric unit of a
15 general hospital, a private agency or company engaged in providing mental
16 health services, or a regional comprehensive care center;

17 (f) A marriage and family therapist licensed under the provisions of KRS
18 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
19 experience in psychiatric mental health practice and currently employed by a
20 hospital or forensic psychiatric facility licensed by the Commonwealth, a
21 psychiatric unit of a general hospital, a private agency or company engaged in
22 providing mental health services, or a regional comprehensive care center;

23 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
24 335.599 with three (3) years of inpatient or outpatient clinical experience in
25 psychiatric mental health practice and currently employed by a hospital or
26 forensic facility licensed by the Commonwealth, a psychiatric unit of a
27 general hospital, a private agency or company engaged in providing mental

- 1 health services, or a regional comprehensive care center; or
- 2 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
- 3 (1) of the following requirements:
- 4 1. Provides documentation that he or she has completed a psychiatric
- 5 residency program for physician assistants;
- 6 2. Has completed at least one thousand (1,000) hours of clinical experience
- 7 under a supervising physician, as defined by KRS 311.840, who is a
- 8 psychiatrist and is certified or eligible for certification by the American
- 9 Board of Psychiatry and Neurology, Inc.;
- 10 3. Holds a master's degree from a physician assistant program accredited
- 11 by the Accreditation Review Commission on Education for the
- 12 Physician Assistant or its predecessor or successor agencies, is
- 13 practicing under a supervising physician as defined by KRS 311.840,
- 14 and:
- 15 a. Has two (2) years of clinical experience in the assessment,
- 16 evaluation, and treatment of mental disorders; or
- 17 b. Has been employed by a hospital or forensic psychiatric facility
- 18 licensed by the Commonwealth or a psychiatric unit of a general
- 19 hospital or a private agency or company engaged in the provision
- 20 of mental health services or a regional community program for
- 21 mental health and individuals with an intellectual disability for at
- 22 least two (2) years; or
- 23 4. Holds a bachelor's degree, possesses a current physician assistant
- 24 certificate issued by the board prior to July 15, 2002, is practicing under
- 25 a supervising physician as defined by KRS 311.840, and:
- 26 a. Has three (3) years of clinical experience in the assessment,
- 27 evaluation, and treatment of mental disorders; or

1 b. Has been employed by a hospital or forensic psychiatric facility
2 licensed by the Commonwealth or a psychiatric unit of a general
3 hospital or a private agency or company engaged in the provision
4 of mental health services or a regional community program for
5 mental health and individuals with an intellectual disability for at
6 least three (3) years;

7 (50)~~[(53)]~~ "Reasonable and prudent parent standard" has the same meaning as in 42
8 U.S.C. sec. 675(10);

9 (51)~~[(54)]~~ "Residential treatment facility" means a facility or group home with more
10 than eight (8) beds designated by the Department of Juvenile Justice or the cabinet
11 for the treatment of children;

12 (52)~~[(55)]~~ "Retain in custody" means, after a child has been taken into custody, the
13 continued holding of the child by a peace officer for a period of time not to exceed
14 twelve (12) hours when authorized by the court or the court-designated worker for
15 the purpose of making preliminary inquiries;

16 (53)~~[(56)]~~ "Risk and needs assessment" means an actuarial tool scientifically proven to
17 identify specific factors and needs that are related to delinquent and noncriminal
18 misconduct;

19 (54)~~[(57)]~~ "Safety plan" means a written agreement developed by the cabinet and agreed
20 to by a family that clearly describes the protective services that the cabinet will
21 provide the family in order to manage risks to a child's safety;

22 (55)~~[(58)]~~ "School personnel" means those certified persons under the supervision of the
23 local public or private education agency;

24 (56)~~[(59)]~~ "Secretary" means the secretary of the Cabinet for Health and Family
25 Services;

26 (57)~~[(60)]~~ "Secure juvenile detention facility" means any~~[- physically secure]~~ facility
27 used for the secure detention of children other than any facility in which adult

1 prisoners are confined;

2 (58)~~((61))~~ "Serious physical injury" means physical injury which creates a substantial
3 risk of death or which causes serious and prolonged disfigurement, prolonged
4 impairment of health, or prolonged loss or impairment of the function of any bodily
5 member or organ;

6 (59)~~((62))~~ "Sexual abuse" includes but is not necessarily limited to any contacts or
7 interactions in which the parent, guardian, person in a position of authority or
8 special trust, as defined in KRS 532.045, or other person having custodial control or
9 supervision of the child or responsibility for his or her welfare, uses or allows,
10 permits, or encourages the use of the child for the purposes of the sexual
11 stimulation of the perpetrator or another person;

12 (60)~~((63))~~ "Sexual exploitation" includes but is not limited to a situation in which a
13 parent, guardian, person in a position of authority or special trust, as defined in
14 KRS 532.045, or other person having custodial control or supervision of a child or
15 responsible for his or her welfare, allows, permits, or encourages the child to
16 engage in an act:

17 (a) Which constitutes prostitution under Kentucky law; or~~[a parent, guardian,~~
18 ~~person in a position of authority or special trust, as defined in KRS 532.045,~~
19 ~~or other person having custodial control or supervision of a child or~~
20 ~~responsible for his or her welfare, allows, permits, or encourages the child to~~
21 ~~engage in an act]~~

22 (b) Of obscene or pornographic photographing, filming, or depicting of a child as
23 provided for under Kentucky law;

24 (61)~~((64))~~ "Social service worker" means any employee of the cabinet or any private
25 agency designated as such by the secretary of the cabinet or a social worker
26 employed by a county or city who has been approved by the cabinet to provide,
27 under its supervision, services to families and children;[

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

(62)~~((66))~~ "Statewide reporting system" means a system for making and compiling reports of child dependency, neglect, and abuse in Kentucky made via telephone call or in writing by a member of the public;

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

1. Beyond the control of school or beyond the control of parents;
2. Habitual runaway;
3. Habitual truant; and
4. Alcohol offenses as provided in KRS 244.085.

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

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

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

(66)~~((70))~~ "Transition plan" means a plan that is personalized at the direction of the youth that:

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

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

2 ~~(67)~~~~(71)~~ "Valid court order" means a court order issued by a judge to a child alleged or
3 found to be a status offender:

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

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

6 (c) Who was given written and verbal warning of the consequences of the
7 violation of the order at the time the order was issued and whose attorney or
8 parent or legal guardian was also provided with a written notice of the
9 consequences of violation of the order, which notification is reflected in the
10 record of the court proceedings; and

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

13 ~~(68)~~~~(72)~~ "Violation" means any offense, other than a traffic infraction, for which a
14 sentence of a fine only can be imposed;

15 ~~(69)~~~~(73)~~ "Youth alternative center" means a ~~nonsecure~~ facility, ***operated by a local***
16 ***government and*** approved by the Department of Juvenile Justice, for the detention
17 of juveniles, both prior to adjudication and after adjudication, which meets the
18 criteria specified in KRS 15A.320;

19 ***(70) "Youth development center" means a residential treatment facility for committed***
20 ***youth operated by the Department of Juvenile Justice; and***

21 ~~(71)~~~~(74)~~ "Youthful offender" means any person regardless of age, transferred to Circuit
22 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently
23 convicted in Circuit Court.

24 ➔Section 4. KRS 610.265 is amended to read as follows:

25 (1) ***(a)*** Any child who is alleged to be a status offender or who is accused of being in
26 contempt of court on an underlying finding that the child is a status offender
27 may be detained in ~~a nonsecure facility or~~ a secure juvenile detention facility

1 or in another facility approved by the Department of Juvenile Justice for a
2 period of time not to exceed twenty-four (24) hours, exclusive of weekends
3 and holidays, pending a detention hearing.

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

10 (2) ~~[Beginning July 1, 2024,]~~ Any child accused of committing a public offense that
11 would~~[be considered]~~ classify the child as a violent offender under KRS
12 439.3401~~[a violent felony offense as defined in KRS 532.200]~~ shall be detained in a
13 secure juvenile detention facility for a period of time not to exceed forty-eight (48)
14 hours, exclusive of weekends and holidays, pending a detention hearing, unless the
15 detention hearing can be held within the time allotted to peace officers to retain
16 custody of the child pursuant to KRS 610.200 or 610.220. This subsection shall not
17 apply to any child ten (10) years of age or younger.

18 (3) (a) Any child detained pursuant to subsection (2) of this section shall be assessed
19 by a mental health professional, whose communications with the child shall
20 be confidential in conformity with the Kentucky Rules of Evidence, to
21 determine if the child exhibits behavior that indicates the child could benefit
22 from cognitive behavioral therapy, other evidence-based behavioral health
23 programs, substance use disorder treatment, or treatment in a psychiatric
24 facility for serious mental illness.

25 (b) Any treatment recommended under this subsection shall be provided by the
26 Department of Juvenile Justice and may be provided pursuant to a contract
27 between the Justice and Public Safety Cabinet and a behavioral health

1 services organization.

2 (c) If the child is released upon a detention hearing, a court may order the child to
3 complete any recommended treatment. The Department of Juvenile Justice
4 shall refer the child to an existing contractor or to other resources for the
5 treatment.

6 (4) Any child detained pursuant to subsection (2) of this section shall be permitted
7 visitation from individuals representing organizations including nonprofit
8 organizations, faith-based organizations, or community organizations, to connect
9 them with, expose them to, or minister to them through programs including but not
10 limited to trades, arts, sports, mentoring, counseling, support programs, or
11 community-based programs. These organizations may offer transition services to
12 any child who is released from detention.

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

19 (6) If the court orders a child detained further, that detention shall be served as follows:

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

24 (b) Except as provided in KRS 630.080(2), if it is alleged that the child is a status
25 offender, the child may be detained in a secure juvenile detention facility for a
26 period not to exceed twenty-four (24) hours after which detention shall occur
27 in *an alternative to secure detention program*~~[a nonsecure setting]~~ approved

1 by the Department of Juvenile Justice pending the child's next court
2 appearance subject to the court's review of the detention order prior to the
3 next court appearance;

4 (c) If a status offender or a child alleged to be a status offender is charged with
5 violating a valid court order, the child may be detained in a secure juvenile
6 detention facility, or in another facility~~[a nonsecure setting]~~ approved by the
7 Department of Juvenile Justice, for a period not to exceed forty-eight (48)
8 hours, exclusive of weekends and holidays, pending the child's next court
9 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 KRS 610.060. The findings required by this paragraph~~[subsection]~~
3 shall be included in any order issued by the court which results in the
4 ~~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 (7) If, at the hearing conducted under subsection (5) of this section, the court conducts
12 an adjudicatory hearing on the merits of a violation of a valid court order, that
13 hearing shall conform to the requirements of KRS 630.080.

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

16 (9) 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 5. 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 ~~be used~~ for official use only, shall not be
16 disclosed publicly, and shall be exempt from disclosure under the Open Records
17 Act, KRS 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 ~~be used~~ for official use only,
22 shall 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. *Any records obtained by an individual designated in this subsection may*
2 *be used by the individual in the course and scope of his or her employment or*
3 *representation but shall not be disclosed to any third party without a court order.*

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

10 (6) ~~{The provisions of }~~ This section shall not apply to employees of local law
11 enforcement agencies, the Department of Kentucky State Police, or the Federal
12 Bureau of Investigation engaged in conducting background checks for the sole
13 purpose of identifying and providing potentially disqualifying juvenile public
14 offense records to the National Instant Criminal Background Check System
15 pursuant to Div. A, Title II, Sec. 12001(a) of the Bipartisan Safer Communities Act,
16 Pub. L. No. 117-159. Notwithstanding KRS 635.040, an adjudication for a public
17 offense is a conviction of a crime for purposes of 18 U.S.C. sec. 922(d)(1), (3), or
18 (9). Any public offense record obtained pursuant to this subsection shall be used for
19 official use only, not be disclosed publicly, and be exempt from disclosure under
20 the Open Records Act, KRS 61.870 to 61.884.

21 (7) (a) ~~{The provisions of }~~ This section shall not apply to records or proceedings in
22 any case in which a child has made an admission to or been adjudicated for *an*
23 *offense that would classify the child as a violent offender under KRS*
24 *439.3401* ~~{a violent felony offense as defined in KRS 532.200}~~ until the
25 expiration of a three (3) year period from the date of admission or
26 adjudication.

27 (b) If the child has not received any additional public offense convictions during

1 the three (3) year period from the date of admission or adjudication, all
2 records in the case shall be automatically sealed and shall not be disclosed
3 consistent with~~[the provisions of]~~ this section.

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

6 (8) ~~A[No]~~ person, including school personnel, shall ***not*** disclose any confidential record
7 or any information contained ***in the confidential record***~~[therein]~~ except as
8 permitted by this section or other specific section of KRS Chapters 600 to 645, or
9 except as permitted by specific order of the court.

10 (9) ~~A[No]~~ person, including school personnel, authorized to obtain records pursuant to
11 KRS Chapters 600 to 645 shall ***not*** obtain or attempt to obtain confidential records
12 to which he or she is not entitled or for purposes for which he or she is not
13 permitted to obtain them pursuant to KRS Chapters 600 to 645.

14 (10) ~~A[No]~~ person, including school personnel, not authorized to obtain records pursuant
15 to KRS Chapters 600 to 645 shall ***not*** obtain or attempt to obtain records which are
16 made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion
17 to a court of competent jurisdiction.

18 (11) ~~A[No]~~ person shall ***not*** destroy or attempt to destroy any record required to be kept
19 pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to
20 KRS Chapters 600 to 645 and is authorized by the court upon proper motion and
21 good cause for the destruction being shown.

22 (12) As used in this section the term "KRS Chapters 600 to 645" includes any
23 administrative regulations which are lawfully promulgated ***in accordance with KRS***
24 ***Chapter 13A and*** pursuant to KRS Chapters 600 to 645.

25 (13) ~~[Nothing in]~~ This section shall ***not*** be construed to prohibit a crime victim from
26 speaking publicly after the adjudication about his or her case on matters within his
27 or her knowledge or on matters disclosed to the victim during any aspect of a

1 juvenile court proceeding.

2 (14) Notwithstanding any other provision of law to the contrary, the Department of
3 Juvenile Justice may publicly release information regarding a child if the child
4 absconds or escapes from a Department of Juvenile Justice facility or placement
5 to assist in securing the safe return of the child. Information released by the
6 Department of Juvenile Justice may include:

7 (a) The child's:

8 1. Name and home county of residence;

9 2. Physical description; and

10 3. Photograph;

11 (b) The name of the facility from which the child absconded or escaped; and

12 (c) A statement that the public should exercise caution and should notify law
13 enforcement immediately if the child is seen.

14 (15) Any information that is publicly released regarding a child pursuant to
15 subsection (14) of this section shall be immediately removed from public access
16 upon request from the Department of Juvenile Justice.

17 ➔Section 6. KRS 645.280 is amended to read as follows:

18 (1) ~~A[No] child held under[the provisions of] this chapter shall **not** be held in a secure~~
19 ~~juvenile detention facility unless a status offense action or public offense action is~~
20 ~~also pending[. No peace officer or any other person shall bring a status offense~~
21 ~~action or a public offense action against a child who is mentally ill and in need of~~
22 ~~hospitalization pursuant to this chapter solely or primarily for the purpose of~~
23 ~~avoiding transporting the child to a hospital, mental health facility, or other less~~
24 ~~restrictive alternative].~~

25 (2) If, after evaluation, the qualified mental health professional finds that the child does
26 not meet the criteria for involuntary hospitalization and the peace officer has reason
27 to believe that the child has committed a status offense or public offense, the peace

1 officer may proceed in accordance with KRS 610.190 to 610.290.

2 ➔Section 7. KRS 15A.0652 is amended to read as follows:

3 The Department of Juvenile Justice shall promulgate administrative regulations that shall
4 include:

5 (1) Development or adoption of a validated risk and needs assessment that:

6 (a) Considers factors such as the severity of the current offense, the child's
7 previous public offense record, and the child's assessed criminal risk factors;

8 (b) Is administered for all children adjudicated on a public offense prior to
9 disposition and at regular intervals thereafter to determine risk levels and to
10 identify intervention needs; and

11 (c) Is implemented based on policies and practices for utilization of the
12 assessment instrument to objectively guide placement and the length and type
13 of treatment for each child committed to the department or probated to the
14 department or other entity;

15 (2) The provision of treatment for committed and probated children in accordance with
16 evidence-based practices, including, at a minimum:

17 (a) Development of a case plan for each child committed to the department or
18 probated to the department that targets the risk factors identified in the
19 assessment, is responsive to individual characteristics, involves the family as
20 appropriate, provides supervision or monitoring of children according to their
21 case plan, and establishes a treatment plan in accordance with subsection (3)
22 of this section; and

23 (b) Development and implementation of a graduated sanctions protocol of swift,
24 certain, proportionate, and graduated sanctions that a probation officer or
25 employee of the department shall apply in response to a child's violations of
26 the terms or conditions of probation. The graduated sanctions protocol shall:

27 1. Include a continuum of sanctions that take into account factors such as

1 the severity of the current violation, the child's previous criminal record,
2 the number and severity of any previous probation violations, the child's
3 assessed risk level, and the extent to which graduated sanctions were
4 imposed for previous violations. The system shall also define positive
5 reinforcements that the probated child may receive for compliance with
6 his or her terms or conditions of probation. A sanction of up to thirty
7 (30) days' out-of-home placement may be imposed for a violation of the
8 terms of probation. A child shall not be committed or recommitted to the
9 Department of Juvenile Justice for the violation of the conditions of
10 probation;

11 2. Provide that judicial review for a probated youth, or an administrative
12 hearing for a committed youth, shall not be necessary to impose
13 graduated sanctions less than out-of-home placement; and

14 3. Require that less-restrictive graduated sanctions be utilized prior to
15 requesting judicial review unless there is clear and convincing evidence
16 that there are no graduated sanctions available that are appropriate for
17 the child and the child is an immediate threat to himself, herself, or
18 others;

19 (3) Development and implementation of treatment plans for committed and probated
20 children that:

21 (a) Take into consideration the severity of the current offense and the child's
22 assessed risk and needs as identified by a validated risk and needs assessment;

23 (b) Involve the family in the treatment plan as appropriate;

24 (c) Allow a child to complete treatment in the community if resources are
25 available rather than in a ~~secure or nonsecure~~ facility; and

26 (d) For committed children may include:

27 1. A maximum of four (4) months of out-of-home placement if the child

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

- 1 (5) Development of procedures for measuring the outcomes of each treatment and
2 intervention program and practice to demonstrate that the program or practice has a
3 documented evidence base and has been evaluated for effectiveness in reducing
4 recidivism for the children it serves, including:
- 5 (a) A process for reviewing the objective criteria for evidence-based programs
6 and practices established by the agency providing the program;
- 7 (b) A process for auditing the effectiveness of the programs; and
- 8 (c) An opportunity for programs that do not meet the criteria based on the audit
9 results to develop and implement a corrective action plan within one hundred
10 eighty (180) days of the audit;
- 11 (6) Development of procedures to track juvenile recidivism, which shall include
12 adjudication of a new public offense or conviction of a crime within three (3) years
13 of release from an out-of-home placement or release from commitment, and
14 collaboration with the Department of Corrections and the Administrative Office of
15 the Courts to obtain adult conviction and incarceration information to enable
16 collection of recidivism data;
- 17 (7) Development of procedures to track the pre-adjudication and post-adjudication
18 admissions beginning no later than August 1, 2014; and
- 19 (8) Development of procedures to ensure maximum utilization of available federal
20 funding resources which may be available to the agency.

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

23 ➔Section 8. KRS 15A.200 is amended to read as follows:

24 As used in KRS 15A.210 to 15A.240 and KRS 15A.990:

- 25 (1) "Certified juvenile facility staff" means individuals who meet the qualifications of,
26 and who have completed a course of education and training developed and
27 approved by, the Department of Juvenile Justice;

(2) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(3) "Youth alternative center" means a ~~nonsecure~~ facility, **operated by a local government and** approved by the Department of Juvenile Justice, for the ~~nonsecure~~ detention of juveniles, **both prior to adjudication and after adjudication, which meets the criteria specified in Section 9 of this Act;** and

(4) The term "facility" or "facilities" as used in KRS 15A.210 to 15A.240 shall mean the facilities defined in this section.

➔Section 9. KRS 15A.320 is amended to read as follows:

(1) Any county **government**, urban-county **government, consolidated local government, unified local government**, or charter county **government** may apply to the Department of Juvenile Justice to construct, operate, or contract for the operation of a youth alternative center.

(2) The youth alternative center ~~shall be a nonsecure facility and~~ shall be under the jurisdiction of that governing body, subject to ~~the provisions of~~ this chapter.

(3) The youth alternative center shall be used only for the detention of juveniles. The youth alternative center shall not be part of a county jail or other facility that houses adult offenders.

(4) The youth alternative center may be used as a place of detention for juveniles by order of a court prior to adjudication and after adjudication regardless of whether the child is a status offender, public offender, or youthful offender.

➔Section 10. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when the actor:

(a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

- 1 1. A state, county, city, or federal peace officer;
- 2 2. An employee of a detention facility~~[,]~~ or state residential treatment
- 3 facility~~[or state staff secure facility for residential treatment]~~ which
- 4 provides for the care, treatment, or detention of a juvenile charged with
- 5 or adjudicated delinquent because of a public offense or as a youthful
- 6 offender;
- 7 3. A healthcare provider as defined in KRS 311.821 or other person
- 8 employed by or under contract with a health clinic, doctor's office,
- 9 dental office, long-term care facility, hospital, or a hospital-owned or
- 10 affiliate outpatient facility, if the event occurs in or on the premises of a
- 11 health clinic, doctor's office, dental office, long-term care facility,
- 12 hospital, or a hospital-owned or affiliate outpatient facility;
- 13 4. An employee of the Department for Community Based Services
- 14 employed as a social worker to provide direct client services, if the
- 15 event occurs while the worker is performing job-related duties;
- 16 5. Paid or volunteer emergency medical services personnel certified or
- 17 licensed pursuant to KRS Chapter 311A, if the event occurs while
- 18 personnel are performing job-related duties;
- 19 6. A paid or volunteer member of an organized fire department, if the
- 20 event occurs while the member is performing job-related duties;
- 21 7. Paid or volunteer rescue squad personnel affiliated with the Division of
- 22 Emergency Management of the Department of Military Affairs or a
- 23 local disaster and emergency services organization pursuant to KRS
- 24 Chapter 39F, if the event occurs while personnel are performing job-
- 25 related duties;
- 26 8. A probation and parole officer;
- 27 9. A transportation officer appointed by a county fiscal court or legislative

- 1 body of a consolidated local government, urban-county government, or
2 charter government to transport inmates when the county jail or county
3 correctional facility is closed while the transportation officer is
4 performing job-related duties;
- 5 10. A public or private elementary or secondary school or school district
6 classified or certified employee, school bus driver, or other school
7 employee acting in the course and scope of the employee's employment;
8 or
- 9 11. A public or private elementary or secondary school or school district
10 volunteer acting in the course and scope of that person's volunteer
11 service for the school or school district;
- 12 (b) Being a person confined in a detention facility, or a juvenile in a state
13 residential treatment facility, ~~or a state staff secure facility for residential~~
14 ~~treatment~~ which provides for the care, treatment, or detention of a juvenile
15 charged with or adjudicated delinquent because of a public offense or as a
16 youthful offender, inflicts physical injury upon or throws or causes feces, or
17 urine, or other bodily fluid to be thrown upon an employee of the facility; or
- 18 (c) Intentionally causes a person, whom the actor knows or reasonably should
19 know to be a peace officer discharging official duties, to come into contact
20 with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the
21 consent of the peace officer.
- 22 (2) (a) For a violation of subsection (1)(a) of this section, assault in the third degree
23 is a Class D felony, unless the offense occurs during a declared emergency as
24 defined by KRS 39A.020 arising from a natural or man-made disaster, within
25 the area covered by the emergency declaration, and within the area impacted
26 by the disaster, in which case it is a Class C felony.
- 27 (b) For a violation of subsection (1)(b) of this section, assault in the third degree

1 is a Class D felony.

2 (c) For violations of subsection (1)(c) of this section, assault in the third degree is
3 a Class B misdemeanor, unless the assault is with saliva, vomit, mucus, blood,
4 seminal fluid, urine, or feces from an adult who knows that he or she has a
5 serious communicable disease and competent medical or epidemiological
6 evidence demonstrates that the specific type of contact caused by the actor is
7 likely to cause transmission of the disease or condition, in which case it is a
8 Class A misdemeanor.

9 (d) As used in paragraph (c) of this subsection, "serious communicable disease"
10 means a non-airborne disease that is transmitted from person to person and
11 determined to have significant, long-term consequences on the physical health
12 or life activities of the person infected.

13 ➔Section 11. KRS 610.012 is amended to read as follows:

14 (1) The District Court or the family division of the Circuit Court shall have exclusive
15 jurisdiction of proceedings under this section.

16 (2) Proceedings to temporarily detain a child suspected of being a runaway by means of
17 an emergency protective custody order, pending further appropriate court action,
18 shall be initiated by filing a complaint with the court-designated worker.

19 (3) Notwithstanding any other provision of law to the contrary, a child who is
20 suspected of being a runaway may be detained in *an alternative to secure detention*
21 *program*~~[a nonsecure facility]~~ for a period of time not to exceed seventy-two (72)
22 hours, exclusive of weekends and holidays, or, if the court makes a finding on the
23 record that no less restrictive alternative is available, in a secure juvenile detention
24 facility for a period of time not to exceed twenty-four (24) hours, exclusive of
25 weekends and holidays, pursuant to an ex parte emergency protective order pending
26 a court hearing to determine whether to return the child to his or her custodian or
27 give custody of the child to the cabinet.

1 (4) If, at the hearing held as provided for in subsection (3) of this section, the child is
2 not released, the court shall issue an emergency custody order pursuant to KRS
3 Chapter 620 and place the child with the cabinet and the cabinet shall file a
4 dependency, neglect, or abuse action.

5 (5) All hearings subsequent to the issuance of an emergency custody order shall be in
6 accordance with KRS Chapter 620.

7 (6) If the child is released, except to the cabinet pursuant to an emergency custody
8 order, the court-designated worker shall initiate a status offense case.

9 (7) ~~[The provisions of]~~ This section shall not apply to a child coming under the purview
10 of KRS Chapter 615.

11 ➔Section 12. KRS 610.200 is amended to read as follows:

12 (1) When a peace officer has taken or received a child into custody on a charge of
13 committing an offense, the officer shall immediately inform the child of his or her
14 constitutional rights and afford the child~~[him]~~ the protections required thereunder,
15 notify the parent, or if the child is committed, the Department of Juvenile Justice or
16 the cabinet, as appropriate, and if the parent is not available, then a relative,
17 guardian, or person exercising custodial control or supervision of the child, that the
18 child has been taken into custody, give an account of specific charges against the
19 child, including the specific statute alleged to have been violated, and the reasons
20 for taking the child into custody.

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

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

27 (b) If the parent, guardian, or other person exercising custodial control or

- 1 supervision is identified and notified, the peace officer may retain custody of
2 the child for a reasonable period to allow the person notified the opportunity
3 to arrive at the officer's location and collect the child.
- 4 (c) If the parent, guardian, or other person exercising custodial control or
5 supervision cannot be identified or located, the peace officer may retain
6 custody of the child for a period of time not to exceed two (2) hours to
7 continue his or her investigation.
- 8 (d) If, at the conclusion of the peace officer's investigation, the parent, guardian,
9 or person exercising custodial control or supervision of the child is identified
10 and notified, the peace officer shall return the child to the custody of that
11 person and shall file a status offense case with the court-designated worker.
- 12 (e) If, at the conclusion of the peace officer's investigation, the parent, guardian,
13 or person exercising custodial control or supervision of the child cannot be
14 identified or located, or that person refuses to collect the child, the peace
15 officer shall file a complaint pursuant to KRS 610.012.
- 16 (3) Unless the child is subject to trial as an adult or unless the nature of the offense or
17 other circumstances are such as to indicate the necessity of retaining the child in
18 custody, the officer shall release the child to the custody of his or her parent or if
19 the child is committed, the Department of Juvenile Justice or the cabinet, as
20 appropriate; or if the parent is not available, then a relative, guardian, or person
21 exercising custodial control or supervision or other responsible person or agency
22 approved by the court upon the written promise, signed by such person or agency,
23 to bring the child to the court at a stated time or at such time as the court may order.
24 The written promise, accompanied by a written report by the officer, shall be
25 submitted immediately~~[forthwith]~~ to the court or court-designated worker and shall
26 detail the reasons for having taken custody of the child, the release of the child, the
27 person to whom the child was released, and the reasons for the release.

- 1 (4) (a) If the person fails to produce the child as agreed, or upon notice from the
2 Court as provided in subsection (3) of this section, a summons, warrant, or
3 custody order may be issued for the apprehension of the person or of the
4 child, or both.
- 5 (b) If the person notified to collect a suspected runaway pursuant to subsection
6 (2)(a) of this section fails or refuses to collect the child, the peace officer shall
7 notify the county attorney, who may file a charge of endangering the welfare
8 of a minor, and the cabinet.
- 9 (5) The release of a child pursuant to this section shall not preclude a peace officer
10 from proceeding with a complaint against a child or any other person.
- 11 (6) Unless the child is subject to trial as an adult, if the child is not released, the peace
12 officer shall contact the court-designated worker who may:
- 13 (a) Release the child to his or her parents;
- 14 (b) Release the child to such other persons or organizations as are authorized by
15 law;
- 16 (c) Release the child to either of the above subject to stated conditions; or
- 17 (d) Except as provided in subsection (7) of this section, authorize the peace
18 officer to retain custody of the child for an additional period not to exceed
19 twelve (12) hours during which the peace officer may transport the child to a
20 secure juvenile detention facility or another~~[a nonsecure]~~ facility. If the child
21 is retained in custody, the court-designated worker shall give notice to the
22 child's parents or person exercising custodial control or supervision of the fact
23 that the child is being retained in custody.
- 24 (7) (a) Except as provided in paragraph (b) of this subsection, ~~a~~the child ten (10)
25 years of age or under shall not be taken to or placed in a juvenile detention
26 facility.
- 27 (b) Any child ten (10) years of age or under who has been charged with the

1 commission of a capital offense or with an offense designated as a Class A or
2 Class B felony may be taken to or placed in a secure juvenile detention
3 facility or youth alternative center when there is no available less restrictive
4 alternative.

5 ➔Section 13. KRS 610.220 is amended to read as follows:

6 (1) Except as otherwise provided by statute, if an officer takes or receives a child into
7 custody on an allegation of committing a public offense or into protective custody
8 on being a suspected runaway, the child may be held at a police station, secure
9 juvenile detention facility, youth alternative center, another~~[a nonsecure]~~ facility,
10 or, as necessary, in a hospital or clinic for the following purposes:

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

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

1 period of retention.

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

5 ➔Section 14. KRS 620.095 is amended to read as follows:

6 A nonoffender, as defined in KRS 600.020, shall not be placed in ~~secure or nonsecure~~
7 detention.

8 ➔Section 15. KRS 630.040 is amended to read as follows:

9 Any person taking a child into custody, with all reasonable speed, shall in this sequence:

10 (1) Deliver the child suffering from a physical condition or illness which requires
11 prompt medical treatment to a medical facility or physician. Children suspected of
12 having a mental or emotional illness shall be evaluated in accordance with ~~the~~
13 ~~provisions of~~ KRS Chapter 645 **or as provided under Section 1 of this Act;**

14 (2) Contact a court designated worker who shall have the responsibility for determining
15 appropriate placement pursuant to KRS 610.200(5);

16 (3) If the court designated worker determines that the placements designated in KRS
17 610.200(5) and subsection (1) of this section have been exhausted or are not
18 appropriate, a child may be delivered to a secure juvenile detention facility, a
19 juvenile holding facility, or **another facility**~~a nonsecure setting~~ approved by the
20 Department of Juvenile Justice pending the detention hearing;

21 (4) When the child has not been released to his **or her** parents or person exercising
22 custodial control or supervision, the person taking the child into custody shall make
23 a reasonable effort promptly to give oral notice to the parent or person exercising
24 custodial control or supervision of the child;

25 (5) In all instances the peace officer taking a child into custody shall provide a written
26 statement to the court designated worker of the reasons for taking the child into
27 custody;

1 (6) If the child is placed in an emergency shelter or medical facility, during the
2 adjudication and disposition of his or her case, the court may order the child's~~his~~
3 parents to be responsible for the expense of the child's~~his~~ care; and

4 (7) The peace officer taking the child into custody shall within three (3) hours of taking
5 a child into custody file a complaint with the court, stating the basis for taking the
6 child into custody and the reason why the child was not released to the parent or
7 other adult exercising custodial control or supervision of the child, relative or other
8 responsible adult, a court designated agency, an emergency shelter or medical
9 facility. Pending further disposition of the case, the court or the court designated
10 worker may release the child to the custody of any responsible adult who can
11 provide adequate care and supervision.

12 ➔Section 16. KRS 630.080 is amended to read as follows:

13 (1) In order for the court to detain a child after the detention hearing, the
14 Commonwealth shall establish probable cause at the detention hearing that the child
15 is a status offender and that further detention of the child is necessary for the
16 protection of the child or the community. If the Commonwealth fails to establish
17 probable cause that the child is a status offender, the complaint shall be dismissed
18 and the child shall be released. If the Commonwealth establishes probable cause
19 that the child is a status offender, but that further detention of the child is not
20 necessary for the protection of the child or the community, the child shall be
21 released to the parent or person exercising custodial control or supervision of the
22 child. If grounds are established that the child is a status offender, and that further
23 detention is necessary, the child may be placed in an alternative to secure
24 detention program~~[a nonsecure setting]~~ approved by the Department of Juvenile
25 Justice;

26 (2) A status offender may be securely detained if the cabinet has initiated or intends to
27 initiate transfer of the youth by competent document under~~[the provisions of]~~ the

- 1 interstate compact pursuant to KRS Chapter 615;
- 2 (3) The appropriate public agency shall:
- 3 (a) Within twenty-four (24) hours, exclusive of weekends and holidays, of
- 4 receiving notification, as provided in KRS 15A.305~~[(3)]~~, that a status offender
- 5 or alleged status offender has been detained on the allegation that the child
- 6 has violated a valid court order, meet with and interview the child; and
- 7 (b) Within forty-eight (48) hours, exclusive of weekend and holidays, of the
- 8 detention hearing required under KRS 610.265, prepare and deliver to the
- 9 court the completed written report required by subsection (4) of this section
- 10 and KRS 610.265 if the child remains in detention after the detention hearing,
- 11 and prior to the disposition hearing if the child has not been detained; and
- 12 (4) A status offender or alleged status offender who is subject to a valid court order
- 13 may be securely detained upon a finding that the child violated the valid court order
- 14 if the court does the following prior to ordering that detention:
- 15 (a) Affirms that the requirements for a valid court order were met at the time the
- 16 original order was issued;
- 17 (b) Makes a determination during the adjudicatory hearing that the child violated
- 18 the valid court order; and
- 19 (c) Within forty-eight (48) hours after the adjudicatory hearing on the violation of
- 20 a valid court order by the child, exclusive of weekends and holidays, the court
- 21 receives and reviews a written report prepared by an appropriate public
- 22 agency that reviews the behavior of the child and the circumstances under
- 23 which the child was brought before the court, determines the reasons for the
- 24 child's behavior, and determines whether all dispositions other than secure
- 25 detention have been exhausted or are inappropriate. If a prior written report is
- 26 included in the child's file, that report shall not be used to satisfy this
- 27 requirement. The child may be securely detained for a period not to exceed

forty-eight (48) hours, exclusive of weekends and holidays, pending receipt and review of the report by the court. The hearing shall be conducted in accordance with~~[the provisions of]~~ KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the~~[secure or nonsecure]~~ detention of a status offender.

➔Section 17. KRS 630.160 is amended to read as follows:

(1) Any~~[Notwithstanding any provision of KRS Chapter 520 to the contrary, no]~~ child who:

(a) Is accused of being a status offender~~;~~~~[or who]~~

(b) Has been adjudicated as a status offender; ~~or~~

(c) ~~[who]~~Has been accused of or held in contempt of court based upon an underlying finding that the child is a status offender; and

(d) ~~[who]~~Is absent without leave from a facility operated by the Department of Juvenile Justice;

may be charged with escape under KRS Chapter 520.

(2) Notwithstanding any provision of KRS Chapter 520 to the contrary, a child who is absent without leave from~~[nonsecure detention option or]~~ home detention, or who fails to report or comply with the conditions of supervised placement, shall not be charged with escape~~[for being absent without leave or failing to comply with the conditions of supervised placement].~~

➔Section 18. KRS 635.055 is amended to read as follows:

A~~[No]~~ child who is found to be in contempt of court shall not be committed as a public offender as a result of the~~[such]~~ finding, and shall not be~~[nor]~~ detained because of the~~[such]~~ finding in a facility other than a secure juvenile detention facility, youth alternative center, an alternative to secure detention program approved by the Department of Juvenile Justice, or in another placement approved by the Department of Justice~~[a nonsecure detention alternative].~~ An order of detention for a child found in

1 contempt shall not exceed thirty (30) days.

2 ➔Section 19. KRS 645.020 is amended to read as follows:

3 The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the
4 context requires otherwise:

5 (1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of
6 a child admitted to a hospital under this chapter;

7 (2) "Danger to self or others" means that it is shown by substantial proof that in the
8 near future the child may attempt suicide or may cause substantial physical harm or
9 threat of substantial physical harm to self or others, as evidenced by recent threats
10 or overt acts, including acts by which the child deprives self or others of the basic
11 means of survival, including reasonable shelter, food or clothing. In determining
12 whether a child presents a danger to self, factors to be considered shall include, but
13 shall not be limited to, an established pattern of past dangerous behavior;

14 (3) "Hospital" means a licensed private or public institution, health care facility, or part
15 thereof, approved by the cabinet to treat children who are mentally ill;

16 (4) "Least restrictive alternative" means the treatment and conditions of treatment for a
17 child which, separately and in combination:

18 (a) Are no more harsh, hazardous or intrusive than necessary to achieve
19 acceptable treatment objectives for the child; and

20 (b) Involve no inpatient care restrictions on physical movement except as
21 reasonably necessary for the administration of treatment or for the protection
22 of the child or others from physical injury.

23 In determining the least restrictive alternative, factors to be considered shall
24 include, but not be limited to, the likelihood, based on the child's prior outpatient
25 treatment, that the child will benefit from outpatient treatment;

26 (5) "Mental health facility" means a residential or nonresidential service providing
27 children psychological or psychiatric treatment for emotional, mental, or behavioral

1 problems;

2 (6) "Mental health group home" means a ~~community-based~~ facility established to
3 serve not less than four (4) nor more than eight (8) mentally ill children with a
4 treatment program developed and supervised by a qualified mental health
5 professional. Mental health group homes shall not be adjacent to or part of a
6 residential treatment facility or a hospital;

7 (7) "Mental health professional" means:

8 (a) A physician licensed under the laws of Kentucky to practice medicine or
9 osteopathy, or a medical officer of the government of the United States while
10 engaged in conducting mental health services;

11 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
12 osteopathy, or a medical officer of the government of the United States
13 engaged in conducting mental health services;

14 (c) A psychologist, a psychological practitioner, a certified psychologist, or a
15 psychological associate, licensed under the provisions of KRS Chapter 319;

16 (d) A registered nurse licensed under the provisions of KRS Chapter 314 engaged
17 in providing mental health services;

18 (e) A licensed clinical social worker licensed under the provisions of KRS
19 335.100, or a certified social worker licensed under the provisions of KRS
20 335.080 engaged in providing mental health services;

21 (f) A marriage and family therapist licensed under the provisions of KRS
22 335.300 to 335.399 engaged in providing mental health services;

23 (g) A professional counselor credentialed under the provisions of KRS Chapter
24 335.500 to 335.599 engaged in providing mental health services;

25 (h) An art therapist certified under KRS 309.130 engaged in providing mental
26 health services; or

27 (i) A pastoral counselor licensed under the provisions of KRS 335.600 to

1 335.699 engaged in providing mental health services; and

2 (8) "Mentally ill child" means that considering the child's age and development, the
3 child has a substantially impaired capacity to use self-control, judgment or
4 discretion in the conduct of the child's affairs and social relations, the child's
5 behavior is maladaptive or the child exhibits recognized emotional symptoms which
6 can be related to physiological, psychological or social factors.

7 ➔Section 20. KRS 645.210 is amended to read as follows:

8 (1) After a notice of contest has been received, the hospital may continue the
9 hospitalization on an involuntary basis until a hearing has been held and the court
10 orders otherwise. In no case may the child be held more than fifteen (15) days
11 beyond the filing of the notice of contest, unless a certification hearing has been
12 held within seven (7) days of the filing of the notice of contest.

13 (2) A hearing to determine the necessity for continued hospitalization shall be held
14 within seven (7) days of the court's receipt of the notice of the contest. If the court
15 concludes that the child does not meet the criteria set out in KRS 645.090, the court
16 may order the child discharged or may enter an emergency custody order for
17 purposes of proceeding under other provisions of KRS Chapter 600 to 645 to secure
18 proper care for the child. The cabinet may place the child in a ~~clinical~~ treatment
19 facility, mental health group home, or mental health care program.

20 ➔Section 21. KRS 403.727 is amended to read as follows:

21 (1) Any petition filed under KRS 403.725 on behalf of a minor who is alleged to be a
22 victim of domestic violence and abuse, or in which a minor is named as a
23 respondent or petitioner, shall comply with the requirements in that section and
24 shall:

25 (a) Proceed in accordance with the procedural safeguards under KRS 610.070;
26 and

27 (b) Conform to the confidentiality provisions under KRS 610.340.

- 1 (2) If the court orders an evidentiary hearing under KRS 403.730(1)(a), a guardian ad
2 litem shall be appointed for any unrepresented minor who is a respondent to the
3 action or a petitioner who is an alleged victim of domestic violence and abuse. The
4 guardian ad litem shall be paid a fee fixed by the court not to exceed five hundred
5 dollars (\$500), which shall be paid by the Finance and Administration Cabinet.
- 6 (3) Violation of the terms or conditions of an order of protection issued under KRS
7 403.740 after the person has been served or given notice of the order shall
8 constitute contempt of court and may constitute a criminal offense pursuant to KRS
9 403.763 if the offender is an adult or a public offense under KRS 600.020~~[(51)]~~ if
10 the offender is a juvenile. Once a juvenile action or contempt proceeding has been
11 initiated, the other shall not be undertaken regardless of the outcome of the original
12 proceeding.
- 13 (4) ~~Nothing in~~ Subsection (3) of this section shall ***not*** preclude the Commonwealth
14 from proceeding, or the petitioner from pursuing charges, against the minor
15 respondent for offenses other than a violation of an order of protection. Proceedings
16 against a minor respondent for offenses other than a violation of an order of
17 protection shall proceed:
- 18 (a) In the juvenile session of District Court; and
- 19 (b) In accordance with the procedural and statutory provisions established for the
20 juvenile session of District Court.
- 21 ➔Section 22. KRS 456.035 is amended to read as follows:
- 22 (1) Any petition filed under KRS 456.030 on behalf of a minor who is an alleged
23 victim of dating violence and abuse, sexual assault, or stalking, or in which a minor
24 is named as a respondent or petitioner, shall comply with the requirements in that
25 section and shall:
- 26 (a) Proceed in accordance with the procedural safeguards under KRS 610.070;
27 and

1 (b) Conform to the confidentiality provisions under KRS 610.340.

2 (2) If the court orders an evidentiary hearing under KRS 456.040(1)(a), a guardian ad
3 litem shall be appointed for any unrepresented minor who is a respondent to the
4 action or a petitioner who is an alleged victim of dating violence and abuse, sexual
5 assault, or stalking. The guardian ad litem shall be paid a fee fixed by the court not
6 to exceed five hundred dollars (\$500), which shall be paid by the Finance and
7 Administration Cabinet.

8 (3) Violation of the terms or conditions of an order of protection issued under KRS
9 456.060 after the person has been served or given notice of the order shall
10 constitute contempt of court and may constitute a criminal offense pursuant to KRS
11 456.180 if the offender is an adult or a public offense under KRS 600.020~~[(51)]~~ if
12 the offender is a juvenile. Once a juvenile action or contempt proceeding has been
13 initiated, the other shall not be undertaken regardless of the outcome of the original
14 proceeding.

15 (4) ~~Nothing in~~ Subsection (3) of this section shall **not** preclude the Commonwealth
16 from proceeding, or the petitioner from pursuing charges, against the minor
17 respondent for offenses other than a violation of an order of protection. Proceedings
18 against a minor respondent for offenses other than a violation of an order of
19 protection shall proceed:

20 (a) In the juvenile session of District Court; and

21 (b) In accordance with the procedural and statutory provisions established for the
22 juvenile session of District Court.

23 ➔Section 23. The Justice and Public Safety Cabinet shall construct a high acuity
24 mental health facility to provide residential treatment for children in the custody of the
25 Department of Juvenile Justice. The facility shall provide beds for a minimum of 24
26 children and shall be designed in a manner that shall allow for additions to the facility to
27 increase bed capacity as needed. The Justice and Public Safety Cabinet shall work with

1 the Cabinet for Health and Family Services to ensure compliance with all health facility
2 requirements, both federal and state. The provisions of this section, and the provisions of
3 subsection (1)(b)5. of Section 2 of this Act, are subject to funding in the executive branch
4 budget.

5 ➔Section 24. The Cabinet for Health and Family Services shall provide or enter
6 into contracts or a memorandum of understanding with a public teaching university in
7 this state to provide clinical services to the high acuity health facility operated by the
8 Justice and Public Safety Cabinet through the Department of Juvenile Justice.

9 ➔Section 25. The Justice and Public Safety Cabinet shall continue to implement
10 the plan to transition back to the regional model of juvenile detention facilities, and to
11 construct two female-only facilities as described in Section 2 of this Act, while
12 continuing to safely segregate males and females and violent and nonviolent offenders.

13 ➔Section 26. (1) An inpatient psychiatric hospital or pediatric teaching
14 hospital shall not refuse admittance of a high acuity youth for inpatient treatment under
15 subsection (6) of Section 1 of this Act, or discharge a high acuity youth from inpatient
16 treatment under subsection (8) of Section 1 of this Act, until the construction of the high
17 acuity mental health facility required under Section 23 of this Act is complete and the
18 facility is operational.

19 (2) This section shall not be construed to require an inpatient psychiatric hospital
20 or pediatric teaching hospital to admit a child if doing so would be in violation of federal
21 law.