

1 AN ACT relating to children.

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

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

4 (1) All students admitted to the common schools shall comply with the lawful
5 regulations for the government of the schools:

6 (a) Willful disobedience or defiance of the authority of the teachers or
7 administrators, use of profanity or vulgarity, assault or battery or abuse of
8 other students, the threat of force or violence, the use or possession of alcohol
9 or drugs, stealing or destruction or defacing of school property or personal
10 property of students, the carrying or use of weapons or dangerous instruments,
11 or other incorrigible bad conduct on school property, as well as off school
12 property at school-sponsored activities, constitutes cause for suspension or
13 expulsion from school; and

14 (b) Assault or battery or abuse of school personnel; stealing or willfully or
15 wantonly defacing, destroying, or damaging the personal property of school
16 personnel on school property, off school property, or at school-sponsored
17 activities constitutes cause for suspension or expulsion from school.

18 (2) (a) Each local board of education shall adopt a policy requiring the expulsion
19 from school for a period of at least twelve (12) months for a student who:

20 1. Is determined by the board through clear and convincing evidence to
21 have made threats that pose a danger to the well-being of students,
22 faculty, or staff of the district;~~or~~

23 2. Is determined by the board to have brought a weapon to a school under
24 its jurisdiction. In determining whether a student has brought a weapon
25 to school, a local board of education shall use the definition of "unlawful
26 possession of a weapon on school property" stated in KRS 527.070;or

27 3. *Is determined by the board to have intentionally caused physical*

injury as defined in KRS 500.080 to educational personnel at a school or school function under the board's jurisdiction.

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

1. Possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction;
2. Physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction, except as provided in paragraph (a)3. of this subsection; or
3. Physically assaulted, battered, or abused educational personnel or other students off school property and the incident is likely to substantially disrupt the educational process.

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

(b) Nothing in this section shall prohibit a board from expelling a student for longer than twelve (12) months.

(c) A board that has expelled a student from the student's regular school setting shall provide or ensure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs

1 or alcohol; the carrying, possessing, or transfer of weapons or dangerous
2 instruments; and any other behavior which may endanger the safety of others.
3 Other intervention services as indicated for each student may be provided by
4 the board or by agreement with the appropriate state or community agency. A
5 state agency that provides the service shall be responsible for the cost.

6 (d) 1. In lieu of expelling a student, or upon the expiration of a student's
7 expulsion, a superintendent may place a student into an alternative
8 program or setting if the superintendent determines placement of the
9 student in his or her regular school setting is likely to substantially
10 disrupt the education process or constitutes a threat to the safety of other
11 students or school staff. The action shall not be taken until the parent,
12 guardian, or other person having legal custody or control of the student
13 has had an opportunity to have a hearing before the board or an appeals
14 committee as described in subparagraph 2. of this paragraph.

15 2. The board may adopt a policy to establish an appeals committee and
16 delegate the authority to hear appeals made under this paragraph to that
17 committee.

18 3. The alternative program or setting may be provided virtually.

19 4. Notwithstanding any other statute or administrative regulation to the
20 contrary, students placed in an alternative program or setting under this
21 paragraph shall be counted in attendance and membership for state
22 funding purposes in the same manner as other students participating in
23 alternative programs of the district.

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

27 6. Following the initial alternative placement of a student under this

1 paragraph, the board shall review the alternative program or setting
2 placement at least once per year and determine if the placement should
3 be continued in accordance with subparagraph 1. of this paragraph.

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

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

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

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

- 1 2. A student who is removed from the same classroom three (3) times
2 within a thirty (30) day period shall be considered chronically disruptive
3 and may be suspended from school in accordance with this section, and
4 no other basis for suspension shall be deemed necessary.
- 5 3. At any time during the school year, for a student who has been removed
6 from the classroom under this paragraph, a principal may require a
7 review of the classroom issues with the teacher and the parent, guardian,
8 or other person having legal custody or control of the student and
9 determine a course of action for the teacher and student regarding the
10 student's continued placement in the classroom.
- 11 4. At any time during the school year, a principal may permanently remove
12 a student from a classroom for the remainder of the school year if the
13 principal determines the student's continued placement in the classroom
14 will chronically disrupt the education process for other students.
- 15 5. When a student is removed from a classroom under this paragraph
16 temporarily or permanently, the principal shall determine the placement
17 of the student in lieu of that classroom, which may include but is not
18 limited to:
 - 19 a. Another classroom in that school; or
 - 20 b. An alternative program or setting, which may be provided
21 virtually, as approved by the superintendent.
- 22 6. Any permanent action by a principal under this paragraph shall be
23 subject to an appeal process in accordance with a policy adopted by the
24 board.
- 25 7. Policies compliant with this paragraph shall be included in the code of
26 behavior and discipline adopted by the board of education under KRS
27 158.148 and the policies adopted by the school council under KRS

1 160.345.

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

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

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

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

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

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

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

25 2. Within thirty (30) days prior to the end of a student's expulsion, the
26 board shall review the details of the expulsion and current factors and
27 circumstances, including if ending the expulsion will substantially

1 disrupt the education process or constitute a threat to the safety of
2 students or school staff, to determine if the expulsion shall be extended
3 for a period not to exceed twelve (12) months.

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

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

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

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

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

22 (c) If the admissions and release committee determines that an exceptional child's
23 behavior is related to his or her disability, the child shall not be suspended any
24 further or expelled unless the current placement could result in injury to the
25 child, other children, or the educational personnel, in which case an
26 appropriate alternative placement shall be provided that will provide for the
27 child's educational needs and will provide a safe learning and teaching

1 environment for all. If the admissions and release committee determines that
2 the behavior is not related to the disability, the local educational agency may
3 pursue its regular suspension or expulsion procedure for the child, if the
4 behavior so warrants. However, educational services shall not be terminated
5 during a period of expulsion and during a suspension after a student is
6 suspended for more than a total of ten (10) days during a school year. A
7 district may seek temporary injunctive relief through the courts if the parent
8 and the other members of the admissions and release committee cannot agree
9 upon a placement and the current placement will likely result in injury to the
10 student or others.

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

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

15 (11) Nothing in this section shall be interpreted or construed to preclude the
16 requirements contained in KRS 158.305 or 158.4416.

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

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

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

26 (a) Assault or attempted assault of any school employee;

27 (b) **Assault** resulting in serious physical injury;

1 **(c)** A sexual offense;

2 **(d)** Kidnapping;

3 **(e)** Assault with the use of a weapon;

4 **(f)** Possession of a firearm or deadly weapon in violation of the law;

5 **(g)** The use, possession, or sale of a controlled substance in violation of the

6 law; or

7 **(h)** Damage to property.

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

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

10 shall report the conduct pursuant to subsection (10) of this section.

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

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

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

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

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

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

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

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

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

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

21 new school.

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

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

24 regulations relating to weapons, alcohol, or drugs requests transfer of his records,

25 those records shall reflect the charges and final disposition of the expulsion

26 proceedings.

27 (6) If any student who is subject to an expulsion proceeding at a public or private

1 school in this state for homicide, assault, or an offense in violation of state law or
2 school regulations relating to weapons, alcohol, or drugs requests transfer of his
3 records to a new school, the records shall not be transferred until that proceeding
4 has been terminated and shall reflect the charges and any final disposition of the
5 expulsion proceedings.

6 (7) Neither the husband-wife privilege of KRE 504 nor any professional-client
7 privilege, including those set forth in KRE 506 and 507, shall be a ground for
8 refusing to make a report required under this section or for excluding evidence in a
9 judicial proceeding of the making of a report and of the conduct giving rise to the
10 making of a report. However, the attorney-client privilege of KRE 503 and the
11 religious privilege of KRE 505 are grounds for refusing to make a report or for
12 excluding evidence as to the report and the underlying conduct.

13 (8) Nothing in this section shall be construed as to require self-incrimination.

14 (9) A person acting upon reasonable cause in the making of a report under this section
15 in good faith shall be immune from any civil or criminal liability that might
16 otherwise be incurred or imposed from:

17 (a) Making the report; and

18 (b) Participating in any judicial proceeding that resulted from the report.

19 (10) Notice required pursuant to this section shall be given to any law enforcement
20 agency created by the local board of education, and to:

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

23 (b) The Department of Kentucky State Police.¶

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

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

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

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

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

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

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

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

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

(c) Class D felony for the third or subsequent offense [required to report under KRS 158.155 who fails to report promptly or who refuses to make a report is guilty of a Class A misdemeanor].

➔ Section 4. KRS 610.200 is amended to read as follows:

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

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

1. The child's parent, guardian, or person exercising custodial control or supervision of the child, if determined:

2. The cabinet or Department of Juvenile Justice, if appropriate; and

3. The court-designated worker.

1 (b) If the parent, guardian, or other person exercising custodial control or
2 supervision is identified and notified, the peace officer may retain custody of
3 the child for a reasonable period to allow the person notified the opportunity
4 to arrive at the officer's location and collect the child.

5 (c) If the parent, guardian, or other person exercising custodial control or
6 supervision cannot be identified or located, the peace officer may retain
7 custody of the child for a period of time not to exceed two (2) hours to
8 continue his or her investigation.

9 (d) If, at the conclusion of the peace officer's investigation, the parent, guardian,
10 or person exercising custodial control or supervision of the child is identified
11 and notified, the peace officer shall return the child to the custody of that
12 person and shall file a status offense case with the court-designated worker.

13 (e) If, at the conclusion of the peace officer's investigation, the parent, guardian,
14 or person exercising custodial control or supervision of the child cannot be
15 identified or located, or that person refuses to collect the child, the peace
16 officer shall file a complaint pursuant to KRS 610.012.

17 (3) Unless the child is subject to trial as an adult, other than for a felony violation of
18 KRS 508.025, or unless the nature of the offense or other circumstances are such as
19 to indicate the necessity of retaining the child in custody, the officer shall release
20 the child to the custody of:

21 (a) His or her parent;

22 (b) ~~for~~ If the child is committed, the Department of Juvenile Justice or the
23 cabinet, as appropriate; or

24 (c) If the parent is not available, then a relative, guardian, or person exercising
25 custodial control or supervision or other responsible person or agency
26 approved by the court upon the written promise, signed by such person or
27 agency, to bring the child to the court at a stated time or at such time as the

1 court may order. The written promise, accompanied by a written report by the
2 officer, shall be submitted immediately[forthwith] to the court or court-
3 designated worker and shall detail the reasons for having taken custody of the
4 child, the release of the child, the person to whom the child was released, and
5 the reasons for the release.

6 (4) (a) If the person fails to produce the child as agreed or upon notice from the court
7 as provided in subsection (3) of this section, a summons, warrant, or custody
8 order may be issued for the apprehension of the person or of the child, or
9 both.

10 (b) If the person notified to collect a suspected runaway pursuant to subsection
11 (2)(a) of this section fails or refuses to collect the child, the peace officer shall
12 notify the county attorney, who may file a charge of endangering the welfare
13 of a minor, and the cabinet.

14 (5) The release of a child pursuant to this section shall not preclude a peace officer
15 from proceeding with a complaint against a child or any other person.

16 (6) Unless the child is subject to trial as an adult, if the child is not released, the peace
17 officer shall contact the court-designated worker who may:
18 (a) Release the child to his or her parents;
19 (b) Release the child to such other persons or organizations as are authorized by
20 law;
21 (c) Release the child to either of the above subject to stated conditions; or
22 (d) Except as provided in subsection (7) of this section, authorize the peace
23 officer to retain custody of the child for an additional period not to exceed
24 twelve (12) hours during which the peace officer may transport the child to a
25 secure juvenile detention facility or a nonsecure facility. If the child is
26 retained in custody, the court-designated worker shall give notice to the
27 child's parents or person exercising custodial control or supervision of the fact

1 that the child is being retained in custody.

2 (7) (a) Except as provided in paragraph (b) of this subsection, no child ten (10) years
3 of age or under shall be taken to or placed in a juvenile detention facility.

4 (b) Any child ten (10) years of age or under who has been charged with the
5 commission of a capital offense or with an offense designated as a Class A or
6 Class B felony may be taken to or placed in a secure juvenile detention
7 facility or youth alternative center when there is no available less restrictive
8 alternative.

9 ➔Section 5. KRS 635.020 is amended to read as follows:

10 (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a
11 child before the court has committed a felony other than those described in
12 subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall
13 initially proceed in accordance with the provisions of this chapter.

14 (2) If a child charged with a capital offense, Class A felony, ~~or~~ Class B felony, or
15 felony violation of KRS 508.025 had attained age fourteen (14) at the time of the
16 alleged commission of the offense, the court shall, upon motion of the county
17 attorney made prior to adjudication, and after the county attorney has consulted
18 with the Commonwealth's attorney, that the child be proceeded against as a
19 youthful offender, proceed in accordance with the provisions of KRS 640.010.

20 (3) Except as provided in subsection (2) of this section, if a child charged with a Class
21 C or Class D felony has on one (1) prior separate occasion been adjudicated a
22 public offender for a felony offense and had attained the age of sixteen (16) at the
23 time of the alleged commission of the offense, the court shall, upon motion of the
24 county attorney made prior to adjudication, and after the county attorney has
25 consulted with the Commonwealth's attorney, that the child be proceeded against as
26 a youthful offender, proceed in accordance with the provisions of KRS 640.010.

27 (4) (a) If a child charged with a felony had attained the age of fourteen (14) years at

1 the time of the commission of the alleged offense in which a firearm, whether
2 functional or not, was used by the child in the commission of the offense, the
3 court shall, upon motion of the county attorney made prior to adjudication,
4 and after the county attorney has consulted with the Commonwealth's
5 attorney, that the child be proceeded against as a youthful offender, proceed in
6 accordance with KRS 640.010.

7 (b) 1. Any other provision of KRS Chapters 610 to 645 to the contrary
8 notwithstanding, if a child charged with a Class A, B, or C felony had
9 attained the age of fifteen (15) years at the time of the commission of the
10 alleged offense in which a firearm, whether functional or not, was used
11 by the child in the commission of the offense, the court shall, upon
12 motion of the county attorney made prior to adjudication and after
13 consultation with the Commonwealth's attorney, that the child be
14 proceeded against as a youthful offender, proceed in accordance with
15 subparagraph 2. of this paragraph.

16 2. The child shall be transferred to the Circuit Court for trial as an adult if,
17 following a preliminary hearing, the District Court finds probable cause
18 to believe that:

19 a. The child committed a Class A, B, or C felony;
20 b. A firearm was used by the child in the commission of that felony;
21 and
22 c. The child was fifteen (15) years of age or older at the time of the
23 alleged commission of the ~~alleged~~ felony.

24 3. a. After consulting with the county attorney, the Commonwealth's
25 attorney may transfer the child back to District Court if the
26 Commonwealth's attorney determines that it is in the best interest
27 of the public and the child to do so.

1 the child be proceeded against as a youthful offender, proceed in accordance with
2 the provisions of KRS 640.010.

3 (7) If a person who is eighteen (18) or older and before the court is charged with a
4 felony that occurred prior to his or her eighteenth birthday, the court shall, upon
5 motion of the county attorney made prior to adjudication, and after the county
6 attorney has consulted with the Commonwealth's attorney, that the child be
7 proceeded against as a youthful offender, proceed in accordance with the provisions
8 of KRS 640.010.

9 (8) All offenses arising out of the same course of conduct shall be tried with the felony
10 arising from that course of conduct, whether the charges are adjudicated under this
11 chapter or under KRS Chapter 640 and transferred to Circuit Court.