

1 AN ACT relating to children.

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

3 ➔Section 1. KRS 17.125 is amended to read as follows:

- 4 (1) The following agencies are parts of Kentucky's juvenile justice system and shall,
5 subject to restrictions imposed by state or federal law, disclose and share with each
6 other all information they maintain on a juvenile in a facility or program or informal
7 adjustment authorized by law:
- 8 (a) All sheriff's offices, police departments, and any other law enforcement
9 agency;
 - 10 (b) All Commonwealth's attorneys and county attorneys;
 - 11 (c) The Attorney General;
 - 12 (d) All jails and juvenile detention facilities, public and private;
 - 13 (e) All courts and clerks of courts;
 - 14 (f) The Administrative Office of the Courts;
 - 15 (g) All departments within the Justice and Public Safety Cabinet; ***and***
 - 16 (h) All departments within the Cabinet for Health and Family Services; ~~and~~
 - 17 ~~(i) All family accountability, intervention, and response teams.~~
- 18 (2) Except as provided in this section, all information shared by agencies specified
19 above shall be subject to applicable confidentiality disclosure, redisclosure, and
20 access restrictions imposed by federal or state law.
- 21 (3) Once a complaint is filed with a court-designated worker alleging that a child has
22 committed a status offense or public offense, all public or private elementary or
23 secondary schools, vocational or business schools, or institutions of higher
24 education shall provide all records specifically requested in writing, and pertaining
25 to that child, to any of the agencies listed in subsection (1) of this section. Pursuant
26 to the authority granted to the Commonwealth under the Family Educational Rights
27 and Privacy Act, 20 U.S.C. sec. 1232g, when this section refers to the release of

1 educational records, the purpose of the release shall be limited to providing the
2 juvenile justice system with the ability to effectively serve, prior to adjudication, the
3 needs of the student whose records are sought. The authorities to which the data are
4 released shall certify that any educational records obtained pursuant to this section
5 shall only be released to persons authorized by statute and shall not be released to
6 any other person without the written consent of the parent of the child. The request,
7 certification, and a record of the release shall be maintained in the student's file.

8 (4) Any request for records, the provision of records, the sharing of records, the
9 disclosure of records, or the redisclosure of records shall be done for official
10 purposes only, on a bona fide need to know basis, and only in connection with a
11 legitimate investigation, prosecution, treatment program, or educational program.

12 (5) Information and records relating to pending litigation in Circuit Court, District
13 Court, or a federal court and information and records relating to an ongoing
14 investigation are not subject to disclosure or sharing under this section.

15 (6) Obtaining or attempting to obtain a record relating to a minor or by sharing or
16 attempting to share a record relating to a minor with an unauthorized person is a
17 violation of this section.

18 ➔Section 2. KRS 158.135 is amended to read as follows:

19 (1) As used in this section, unless the context otherwise requires:

20 (a) "State agency children" means:

21 1. a. Those children of school age committed to or in custody of the
22 Cabinet for Health and Family Services and placed, or financed by
23 the cabinet, in a Cabinet for Health and Family Services operated
24 or contracted institution, treatment center, facility, including those
25 for therapeutic foster care and excluding those for nontherapeutic
26 foster care; or

27 b. Those children placed or financed by the Cabinet for Health and

1 Family Services in a private facility pursuant to child care
 2 agreements including those for therapeutic foster care and
 3 excluding those for nontherapeutic foster care;

4 2. Those children of school age in home and community-based services
 5 provided as an alternative to intermediate care facility services for the
 6 intellectually disabled;

7 3. Those children committed to or in custody of the Department of
 8 Juvenile Justice and placed in a department operated or contracted
 9 facility or program; and

10 4. Those children referred by a *court-designated worker as defined in*
 11 *KRS 600.020*~~[family accountability, intervention, and response team as~~
 12 ~~described in KRS 605.035]~~ and admitted to a Department of Juvenile
 13 Justice operated or contracted day treatment program;

14 (b) "Current costs and expenses" means all expenditures, other than for capital
 15 outlay and debt service, which are in excess of the amount generated by state
 16 agency children under the Support Education Excellence in Kentucky funding
 17 formula pursuant to KRS 157.360. These expenditures are necessary to
 18 provide a two hundred thirty (230) day school year, smaller teacher pupil
 19 ratio, related services if identified on an individual educational plan, and more
 20 intensive educational programming; and

21 (c) "Therapeutic foster care" means a remedial care program for troubled children
 22 and youth that is in the least restrictive environment where the foster parent is
 23 trained to implement planned, remedial supervision and care leading to
 24 positive changes in the child's behavior. Children served in this placement
 25 have serious emotional problems and meet one (1) or more of the following
 26 criteria:

27 1. Imminent release from a treatment facility;

- 1 2. Aggressive or destructive behavior;
 - 2 3. At risk of being placed in more restrictive settings, including
 - 3 institutionalization; or
 - 4 4. Numerous placement failures.
- 5 (2) (a) Unless otherwise provided by the General Assembly in a budget bill, any
- 6 county or independent school district that provides elementary or secondary
- 7 school services to state agency children shall be reimbursed through a contract
- 8 with the Kentucky Educational Collaborative for State Agency Children. The
- 9 school services furnished to state agency children shall be equal to those
- 10 furnished to other school children of the district.
- 11 (b) The Department of Education shall, to the extent possible within existing
- 12 appropriations, set aside an amount of the state agency children funds
- 13 designated by the General Assembly in the biennial budget to reimburse a
- 14 school district for its expenditures exceeding twenty percent (20%) of the total
- 15 amount received from state and federal sources to serve a state agency child.
- 16 (3) The General Assembly shall, if possible, increase funding for the education
- 17 programs for state agency children by a percentage increase equal to that provided
- 18 in the biennial budget for the base funding level for each pupil in the program to
- 19 support education excellence in Kentucky under KRS 157.360 and, if applicable, by
- 20 an amount necessary to address increases in the number of state agency children
- 21 being served.
- 22 (4) The Kentucky Educational Collaborative for State Agency Children shall make to
- 23 the chief state school officer the reports required concerning school services for
- 24 state agency children, and shall file with the Cabinet for Health and Family Services
- 25 unit operating or regulating the institution or day treatment center, or contracting
- 26 for services, in which the children are located a copy of the annual report made to
- 27 the chief state school officer.

1 (5) The Department of Juvenile Justice shall contract with a public university or
 2 nonprofit education entity utilizing all funds generated by the children in state
 3 agency programs, except Oakwood and Hazelwood funds, and the funds in the
 4 Kentucky Department of Education budget, pursuant to this section, as well as any
 5 other educational funds for which all Kentucky children are entitled. The total of
 6 these funds shall be utilized to provide educational services through the Kentucky
 7 Educational Collaborative for State Agency Children established in KRS 605.110.

8 (6) Notwithstanding the provisions of any other statute, the Kentucky Educational
 9 Collaborative for State Agency Children shall operate a two hundred thirty (230)
 10 day school program.

11 ➔Section 3. KRS 200.505 is amended to read as follows:

12 There is hereby created a State Interagency Council for Services and Supports to
 13 Children and Transition-Age Youth. The chairperson of the council shall be designated
 14 by the Governor and shall establish procedures for the council's internal procedures.

15 (1) This council shall be composed of the following:

16 (a) Members who shall serve by virtue of their positions:

17 1. The commissioner of the Department of Education;[]

18 2. The commissioner of the Department for Behavioral Health,
 19 Developmental and Intellectual Disabilities;[]

20 3. The commissioner of the Department for Community Based Services;[]

21 4. The commissioner of the Department for Public Health;[]

22 5. The commissioner of the Department for Medicaid Services;[]

23 6. The commissioner of the Department of Juvenile Justice;[]

24 7. The director of the Division of Family Resource and Youth Services
 25 Centers;[]

26 8. The executive director of the Office for Children with Special Health
 27 Care Needs;[]

1 9. The executive officer of the Department of Family and Juvenile Services
2 of the Administrative Office of the Courts;[;]

3 10. The chair of the Subcommittee for Equity and Justice for all Youth of
4 the Juvenile Justice Advisory Board;[;]

5 11. The executive director of the Kentucky Housing Corporation;[;]

6 12. The executive director of the Kentucky Office of Vocational
7 Rehabilitation;[;] and

8 13. The president of the Council on Postsecondary Education, or their
9 designees;

10 (b) The chairperson of the council shall appoint one (1) parent of a child or
11 transition-age youth with a behavioral health need, who is a consumer of
12 services and supports within the system of care to serve as a member of the
13 council, and one (1) parent who meets the same criteria to serve as the parent
14 member's alternate to serve in the absence of the parent member. For each
15 appointment to be made, the State Interagency Council for Services and
16 Supports to Children and Transition-Age Youth shall vote on nominations
17 submitted by members. The nominee receiving the most votes shall be
18 appointed. Appointees shall serve a term of two (2) years and may be
19 reappointed to additional two (2) year terms. If the child of the parent member
20 or alternate parent member ceases to be a consumer of services and supports
21 within the system of care during the term of appointment, the member shall be
22 eligible to serve out the remainder of the term of appointment. The alternate
23 parent member may attend and participate in all council meetings but shall
24 vote only in the absence of the parent member. The parent member and
25 alternate parent member shall receive no compensation in addition to that
26 which they may already receive as service providers or state employees who
27 are required to attend as part of their duties, but the parent member and

1 alternate parent member shall be reimbursed for expenses incurred through
2 the performance of their duties as council members if it is outside the scope of
3 their job duties;

4 (c) The chairperson of the council shall appoint one (1) youth between the ages of
5 sixteen (16) and twenty-five (25), who has a behavioral health disorder and
6 who is receiving or has received services to address mental health, substance
7 use, or co-occurring mental health and substance use disorder, to serve as a
8 member of the council, and one (1) youth who meets the same criteria to serve
9 as the youth member's alternate in the absence of the youth member. For each
10 appointment to be made, the State Interagency Council for Services and
11 Supports to Children and Transition-Age Youth shall vote on nominations
12 submitted by members. The nominee receiving the most votes shall be
13 appointed. Appointees shall serve a term of two (2) years and may be
14 reappointed to additional two (2) year terms, and the youth member and the
15 youth member's alternate shall be eligible to serve out the remainder of their
16 term of appointment regardless of age. The alternate youth member may
17 attend and participate in all council meetings but shall vote only in the
18 absence of the youth member. The youth member and alternate youth member
19 shall receive no compensation in addition to that which they may already
20 receive as service providers or state employees who are required to attend as
21 part of their duties, but the youth member and alternate youth member shall be
22 reimbursed for expenses incurred through the performance of their duties as
23 council members if it is outside the scope of their job duties;

24 (d) The chairperson of the council shall appoint one (1) member of a nonprofit
25 family organization representing consumers of services and supports within
26 the system of care whose membership, leadership, and governance include
27 parents, primary caregivers, or children or transition-age youth with serious

1 emotional, behavioral, or mental health needs, to serve as a member of the
 2 council. For each appointment to be made, the chair shall publicly post on the
 3 State Interagency Council for Services and Supports to Children and
 4 Transition-Age Youth website~~[Web site]~~ a solicitation for letters of interest
 5 from qualified organizations and submit all qualified responses to a vote of
 6 the full membership. The organization which receives the most votes shall
 7 designate a representative to serve a term of two (2) years, and may be
 8 reappointed to additional two (2) year terms. The family organization member
 9 shall receive no compensation in addition to that which the member may
 10 already receive as an employee who is required to attend as part of his or her
 11 duties, but shall be reimbursed for expenses incurred through the performance
 12 of duties as a council member if it is outside the scope of his or her job duties;
 13 and

14 (e) At the end of a term, a member shall continue to serve until a successor is
 15 appointed.

16 (2) The State Interagency Council for Services and Supports to Children and
 17 Transition-Age Youth shall:

18 (a) Make recommendations annually to the Governor and the Legislative
 19 Research Commission regarding the system of care for children and
 20 transition-age youth with or at risk of behavioral health needs;

21 (b) Direct each regional interagency council to *operate as the regional locus of*
 22 *accountability for the system of care;*~~;~~

23 ~~1. Operate as the regional locus of accountability for the system of care;~~
 24 ~~and~~

25 ~~2. Participate in family accountability, intervention, and response teams~~
 26 ~~established pursuant to KRS 605.035;]~~

27 (c) Assess the effectiveness of regional councils in serving as the locus of

1 accountability for the system of care for children and transition-age youth
2 with or at risk of behavioral health needs;

3 (d) Meet at least monthly and maintain records of meetings; and

4 (e) Develop a comprehensive array of services and supports to meet the needs of
5 children and transition-age youth with or at risk of developing behavioral
6 health needs.

7 (3) Agencies represented on the state council shall adopt interagency agreements as
8 necessary to advance the system of care.

9 (4) The State Interagency Council for Services and Supports to Children and
10 Transition-Age Youth may promulgate administrative regulations necessary to
11 comply with the requirements of KRS 200.501 to 200.509.

12 ➔Section 4. KRS 200.509 is amended to read as follows:

13 (1) There are hereby created regional interagency councils for the system of care.
14 These councils shall be formed in each area development district within the
15 Commonwealth of Kentucky, except that those area development districts that
16 contain a county with a population greater than one hundred thousand (100,000)
17 may form up to three (3) such councils. The regional interagency councils shall be
18 chaired by one (1) member, chosen by a majority vote of the members. Each
19 council shall be composed of the following members:

20 (a) The children's services director from each regional community mental health
21 center or ***his or her***~~their~~ designee;

22 (b) One (1) court-designated specialist or court-designated worker chosen by the
23 executive officer of the Department of Family and Juvenile Services of the
24 Administrative Office of the Courts;

25 (c) One (1) special education cooperative representative with behavioral health
26 experience chosen by the directors of cooperatives in the area served by the
27 regional council;

- 1 (d) One (1) parent of a child with a behavioral health need, who is or has been a
2 consumer of system of care services and supports, and one (1) parent who
3 meets the same criteria to serve as the parent member's alternate, who may
4 attend and participate in all council meetings, but shall vote only in the
5 absence of the parent member. For each appointment to be made, the regional
6 interagency council for which the appointment is to be made shall submit to
7 the chair of the State Interagency Council for Services and Supports to
8 Children and Transition-Age Youth a list of two (2) names of parents who are
9 qualified for appointment from which list the chair of the State Interagency
10 Council for Services and Supports to Children and Transition-Age Youth shall
11 make the appointment. Appointees shall serve a term of two (2) years, and
12 may be reappointed to additional two (2) year terms. If the child of the parent
13 member or alternate parent member ceases to be a consumer of system of care
14 services and supports during the term of appointment, the member shall be
15 eligible to serve out the remainder of the term of appointment;
- 16 (e) One (1) transition-age youth who has a behavioral health disorder and who is
17 receiving or has received a service to address mental health, substance use, or
18 co-occurring mental health and substance use disorder, and one (1) transition-
19 age youth who meets the same criteria to serve as the youth member's
20 alternate in the absence of the youth member. For each appointment to be
21 made, the regional interagency council for which the appointment is to be
22 made shall submit to the chair of the State Interagency Council for Services
23 and Supports to Children and Transition-Age Youth a list of two (2) names of
24 transition-age youth who are qualified for appointment from which list the
25 chair of the State Interagency Council for Services and Supports to Children
26 and Transition-Age Youth shall make the appointment. Appointees shall serve
27 a term of two (2) years, and may be reappointed to additional two (2) year

1 terms. If the youth member or alternate youth member ceases to be a
2 consumer of system of care services and supports during the term of
3 appointment, the member shall be eligible to serve out the remainder of the
4 term of appointment;

5 (f) Any other local public or private agency that provides services and supports to
6 children and transition-age youth with behavioral health needs which the
7 regional interagency council may invite to have a representative become a
8 permanent or temporary member of the council; and

9 (g) One (1) representative from each of the Department of Juvenile Justice,
10 family resource and youth services centers, the Kentucky Office of Vocational
11 Rehabilitation, the Department for Community Based Services, and local
12 health departments.

13 (2) ~~A~~~~Not~~ member of a regional interagency council for the system of care shall ***not*** be
14 given compensation in addition to that which they already receive as service
15 providers or state employees, except that the parent and youth members and
16 alternate parent and youth members of regional interagency councils shall be
17 reimbursed by the regional interagency council's contracted fiscal agent for all
18 expenses incurred through the performance of their duties as council members if it
19 is outside the scope of their job duties.

20 (3) Each regional interagency council for the system of care shall perform the
21 following functions:

22 (a) Conduct regional system of care planning and operations;

23 (b) Coordinate system-level continuous quality improvement;

24 (c) Identify and develop system of care expansion opportunities;

25 (d) Promote awareness of the system of care;

26 (e) Initiate and adopt interagency agreements as necessary for providing services
27 and supports to children and transition-age youth with or at risk of behavioral

- 1 health needs by the agencies represented in the regional council; and
- 2 (f) Advise the state interagency council regarding the system of care within the
- 3 region[; ~~and~~
- 4 ~~(g) Participate in family accountability, intervention, and response teams~~
- 5 ~~established pursuant to KRS 605.035].~~
- 6 (4) The secretary ***of the Cabinet*** for Health and Family Services and the designee of the
- 7 Kentucky[~~State~~] Department of Education shall ensure that regional interagency
- 8 councils for the system of care are formed.
- 9 (5) Local interagency councils for the system of care may be formed at the discretion of
- 10 a regional interagency council to advance the functions of the regional interagency
- 11 council at the city, county, or other local community level.
- 12 ➔Section 5. KRS 605.030 is amended to read as follows:
- 13 (1) A court-designated worker may:
- 14 (a) Receive complaints;
- 15 (b) Review complaints taken by peace officers;
- 16 (c) Investigate complaints except neglect, abuse, and dependency;
- 17 (d) Perform an initial screening for human trafficking as defined in KRS 529.010
- 18 for referral to the cabinet for investigation as a case of dependency, neglect, or
- 19 abuse;
- 20 (e) Dispose of complaints limited to a total of three (3) status or nonfelony public
- 21 offense complaints per child and, with written approval of the county
- 22 attorney, one (1) felony complaint that does not involve the commission of a
- 23 sexual offense or the use of a deadly weapon;
- 24 (f) Administer oaths;
- 25 (g) Issue summonses;
- 26 (h) Issue subpoenas;
- 27 (i) Make advisory dispositional recommendations and provide, within forty-eight

- 1 (48) hours, exclusive of weekends and holidays, information concerning a
2 child who has chosen to waive the investigation pursuant to KRS 610.100;
- 3 (j) Perform such duties as required by KRS Chapter 645;
- 4 (k) Administer evidence-based screenings and assessments to identify the risk
5 and needs of a child and his or her family;
- 6 (l) Enter into diversion agreements, including referral to programs or service
7 providers, providing case management and service coordination, assisting
8 with barriers to completion, and monitoring progress;
- 9 (m) Impose graduated sanctions, from least restrictive to most restrictive, in
10 response to violations of the terms of a diversion agreement;
- 11 (n) Gather information necessary to track and record outcomes of all diversion
12 agreement recommendations and final diversion disposition;
- 13 (o) Collaborate and cooperate with the ~~family accountability, intervention, and~~
14 ~~response team,~~ director of pupil personnel as appropriate, and service
15 providers to ensure all appropriate interventions are utilized;
- 16 (p) Report annually to his or her local public school districts and to the
17 Administrative Office of the Courts an inventory of all programs and service
18 providers within the judicial district they serve;
- 19 (q) Request from the schools a student's education records pursuant to KRS
20 17.125; and
- 21 (r) Perform such other functions related to activities of children as may be
22 authorized or directed by the court.
- 23 (2) Upon the filing of a petition which initiates a formal court action in the interest of
24 the child, the court-designated worker's involvement, with the exception of the
25 activities defined in subsection (1)(i) of this section, shall cease.
- 26 (3) When a child is to be tried as an adult, the court-designated worker need not make
27 dispositional recommendations.

1 ➔Section 6. KRS 605.130 is amended to read as follows:

2 In addition to the other duties, functions, and responsibilities imposed by law, the cabinet,
3 through its authorized representatives, shall have general supervision and management of
4 all matters contained in KRS 620.150 and 620.170 and shall, wherever possible:

- 5 (1) Locate and plan for all children who are dependent, neglected, or abused;
6 (2) Cooperate with and assist the courts of the various counties;
7 (3) Assist Circuit Courts through services to children whenever requested by the court.

8 The cabinet may charge a reasonable fee for such services to be taxed as costs by
9 the court;

10 ~~(4) [Assess all referrals received from a court designated worker, pursuant to direction~~
11 ~~from the family accountability, intervention, and response team, to determine~~
12 ~~whether a basis exists to file a dependency, neglect, or abuse petition;~~

13 ~~(5)]Track and report to the oversight council created in KRS 15A.063 the number of~~
14 referrals received, the number of investigations made upon those referrals, and the
15 number and type of petitions filed in response;

16 ~~(5) [(6)]~~ Identify all youth who have status offense charges and are committed or
17 probated to the cabinet and report the number of committed and probated youth to
18 the oversight council created in KRS 15A.063; and

19 ~~(6) [(7)]~~ Perform such other services as may be deemed necessary for the protection of
20 children.

21 ➔Section 7. KRS 610.030 is amended to read as follows:

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

- 23 (1) If any person files a complaint alleging that a child, except a child alleged to be
24 neglected, abused, dependent, or mentally ill who is subject to the jurisdiction of the
25 court, may be within the purview of KRS Chapters 600 to 645, the court-designated
26 worker shall make a preliminary determination as to whether the complaint is
27 complete. In any case where the court-designated worker finds that the complaint is

1 incomplete, the court-designated worker shall return the complaint without delay to
2 the person or agency originating the complaint or having knowledge of the facts, or
3 to the appropriate law enforcement agency having investigative jurisdiction of the
4 offense, and request additional information in order to complete the complaint. The
5 complainant shall promptly furnish the additional information requested;

6 (2) (a) Upon receipt of a complaint which appears to be complete and which alleges
7 that a child has committed a public offense, the court-designated worker shall
8 refer the complaint to the county attorney for review pursuant to KRS
9 635.010.

10 (b) If after review the county attorney elects to proceed, the court-designated
11 worker shall conduct a preliminary intake inquiry to recommend whether the
12 interests of the child or the public require that further action be taken or
13 whether, in the interest of justice, the complaint can be resolved informally
14 without the filing of a petition;

15 (3) Upon receipt of a complaint that appears to be complete and that alleges that the
16 child has committed a status offense, the court-designated worker shall conduct a
17 preliminary intake inquiry to determine whether the interests of the child or the
18 public require that further action be taken;

19 (4) Prior to conducting a preliminary intake inquiry, the court-designated worker shall
20 notify the child and the child's parent, guardian, or other person exercising custodial
21 control or supervision of the child in writing:

22 (a) Of their opportunity to be present at the preliminary intake inquiry;

23 (b) That they may have counsel present during the preliminary intake inquiry as
24 well as the formal conference thereafter;

25 (c) 1. That all information supplied by the child to a court-designated worker
26 during any process prior to the filing of the petition shall be deemed
27 confidential and shall not be subject to subpoena or to disclosure

1 without the written consent of the child.

2 2. Information may be shared between treatment providers and^[,] the
3 court-designated worker^[,] ~~and the family accountability, intervention,~~
4 ~~and response team~~ to enable the court-designated worker to facilitate
5 services and facilitate compliance with the diversion agreement; and

6 (d) That the child has the right to deny the allegation and demand a formal court
7 hearing;

8 (5) The preliminary intake inquiry shall include the administration of an evidence-
9 based screening tool and, if appropriate and available, a validated risk and needs
10 assessment, in order to identify whether the child and his or her family are in need
11 of services and the level of intervention needed;

12 (6) (a) Upon the completion of the preliminary intake inquiry for a minor who is
13 alleged to be a status offender under KRS 630.020(3) and is alleged to have
14 been absent without excuse for fifteen (15) or more days during a school year,
15 the court-designated worker shall refer the complaint to the county attorney.
16 The county attorney shall then refer the complaint:

- 17 1. For formal court action; or
18 2. To be handled under subsection (8) of this section.

19 (b) Upon the completion of the preliminary intake inquiry for a minor who is
20 alleged to be beyond the control of the school under KRS 630.020(2), the
21 court-designated worker shall refer the complaint to the county attorney.

22 The county attorney shall then refer the complaint:

- 23 1. For formal court action; or
24 2. To be handled under subsection (8) of this section.

25 (c) Upon the completion of the preliminary intake inquiry for all other
26 allegations, the court-designated worker may:

- 27 1. If the complaint alleges a status offense, determine that no further action

- 1 be taken~~[subject to review by the family accountability, intervention,~~
2 ~~and response team]~~;
- 3 2. If the complaint alleges a public offense, refer the complaint to the
4 county attorney;
- 5 3. Refer a public offense complaint for informal adjustment; or
- 6 4. Based upon the results of the preliminary intake inquiry, other
7 information obtained, and a determination that the interests of the child
8 and the public would be better served, and with the written approval of
9 the county attorney for a public offense complaint, if necessary, conduct
10 a formal conference and enter into a diversion agreement;
- 11 (7) Upon receiving written approval of the county attorney, if necessary, to divert a
12 public offense complaint, and prior to conducting a formal conference, the court-
13 designated worker shall advise in writing the complainant, the victim if any, and the
14 law enforcement agency having investigative jurisdiction of the offense:
- 15 (a) Of the recommendation and the reasons **for the recommendation**~~[therefor]~~
16 and that the complainant, victim, or law enforcement agency may submit
17 within ten (10) days from receipt of **the**~~[such]~~ notice a complaint to the county
18 attorney for special review; or
- 19 (b) In the case of a misdemeanor diverted pursuant to KRS 635.010(4), of the fact
20 that the child was statutorily entitled to divert the case;
- 21 (8) A formal conference shall include the child and his or her parent, guardian, or other
22 person exercising custodial control or supervision. The formal conference shall be
23 used to:
- 24 (a) Present information obtained at the preliminary intake inquiry; and
- 25 (b) 1. Develop a diversion agreement that shall:
- 26 a. i. Require that the child regularly attend school **and refrain**
27 **from conduct that constitutes cause for suspension or**

1 expulsion from school; ~~and~~

- 2 ii. For a child against whom a complaint alleging truancy has
3 been filed, require that if the child is absent from school
4 without excuse for four (4) days during ~~the~~ diversion
5 agreement, the child shall immediately be considered to have
6 failed to complete the diversion agreement and subsection
7 (9)(b)3. of this section shall immediately apply; and

8 iii. For a child against whom a complaint alleging the child is
9 beyond the control of the school has been filed, require that
10 if the child is suspended or expelled during the diversion
11 agreement due solely to a behavioral incident that takes
12 place after the child enters into the diversion agreement,
13 and upon consultation between the court-designated
14 worker and the county attorney, the county attorney
15 determines that the child had adequate opportunity to
16 engage in any available services referred by the court-
17 designated worker, the child shall immediately be
18 considered to have failed to complete the diversion
19 agreement and subsection (9)(b)4. of this section shall
20 immediately apply; and

- 21 b. Not exceed twelve (12) months in duration, and may include:
- 22 i. Referral of the child, and family if appropriate, to a public or
23 private entity or person for the provision of identified
24 services to address the complaint or assessed needs;
- 25 ii. Referral of the child, and family if appropriate, to a
26 community service program within the limitations provided
27 under KRS 635.080(2);

- 1 iii. Restitution, limited to the actual pecuniary loss suffered by
- 2 the victim, if the child has the means or ability to make
- 3 restitution;
- 4 iv. Notification that the court-designated worker may apply
- 5 graduated sanctions for failure to comply with the diversion
- 6 agreement;
- 7 v. Any other program or effort which reasonably benefits the
- 8 community and the child; and
- 9 vi. A plan for monitoring the child's progress and completion of
- 10 the agreement.

11 2. Prior to developing the diversion agreement, the court-designated
 12 worker or court-designated specialist shall contact the school district
 13 that the child attends to obtain background information from school
 14 personnel regarding family background, education records, any services
 15 previously provided, and any recommended trauma informed strategies[.

16 ~~3. Upon developing a diversion agreement, the court designated specialist~~
 17 ~~shall make all details of the agreement accessible to all members of the~~
 18 ~~family, accountability, intervention, and response team through an~~
 19 ~~electronic platform provided by the Administrative Office of the~~
 20 ~~Courts];~~

21 (9) (a) If a child successfully completes a diversion agreement, the underlying
 22 complaint shall be dismissed and further action related to that complaint shall
 23 be prohibited.

24 (b) If a child fails to appear for a preliminary intake inquiry, declines to enter into
 25 a diversion agreement, or fails to complete a diversion agreement, then:

- 26 1. For a public offense complaint, the matter shall be referred to the county
- 27 attorney for formal court action and, if a petition is filed, the child may

1 request that the court dismiss the complaint based upon his or her
 2 substantial compliance with the terms of diversion;

3 2. For a status offense complaint, except as provided for in
 4 ~~*subparagraphs*~~^[subparagraph] 3. **and 4.** of this paragraph, the court-
 5 designated worker shall refer the matter to the **county attorney for**
 6 **consultation and, if a petition is filed, the child may request that the**
 7 **court dismiss the complaint based upon his or her substantial**
 8 **compliance with the terms of the diversion;**~~[family accountability,~~
 9 ~~intervention, and response team for review and further action; and]~~

10 3. For a status offense complaint alleging truancy for which the child failed
 11 diversion in accordance with subsection (8)(b)1.a.ii. of this section, the
 12 matter shall immediately be referred to the county attorney for formal
 13 court action; **and**

14 **4. For a status offense complaint alleging beyond the control of the**
 15 **school for which the child failed diversion in accordance with**
 16 **subsection (8)(b)1.a.iii. of this section, the matter shall immediately be**
 17 **referred to the county attorney for formal court action.**

18 (c) ~~[If the child enters into a diversion agreement or is referred to the family~~
 19 ~~accountability, intervention, and response team for truancy and there is no~~
 20 ~~action implemented by the family accountability, intervention, and response~~
 21 ~~team within thirty (30) days, the family accountability, intervention, and~~
 22 ~~response team shall report to the court the reasons for inaction and shall~~
 23 ~~provide a plan for action on the child's case. The court shall review on the~~
 24 ~~record any diversion agreement and any report, without the attendance or~~
 25 ~~appearance of the child, at regular intervals at the court's discretion to verify~~
 26 ~~family accountability, intervention, and response team member attendance,~~
 27 ~~team accountability, and performance.~~

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

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

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

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

16 ➔Section 8. The following KRS section is repealed:

17 605.035 Family accountability, intervention, and response teams -- Purpose --
18 Membership.