

1 AN ACT relating to interrogation of children.

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

3 ➔Section 1. KRS 610.200 is amended to read as follows:

4 (1) ***As used in this section, "custodial interrogation" means any interview conducted***
5 ***by a peace officer that would lead a reasonable child to believe that he or she is in***
6 ***custody associated with an arrest and during which the peace officer takes***
7 ***actions or ask questions that are reasonably likely to elicit a response from the***
8 ***child that could incriminate him or her.***

9 **(2)** When a peace officer has taken or received a child into custody on a charge of
10 committing an offense, **prior to a custodial interrogation or interview and before**
11 **the waiver of the child's**~~[the officer shall immediately inform the child of his]~~
12 ~~constitutional rights and afford him the protections required thereunder],~~ **the peace**
13 **officer or a court-designated worker shall immediately arrange for the child to**
14 **consult with legal counsel in person or via telephone or video conference. The**
15 **consultation with legal counsel shall:**

16 **(a) Not be waived; and**

17 **(b) Be conducted in a location that allows for a private conversation.**

18 **(3) The peace officer shall** notify the parent, or if the child is committed, the
19 Department of Juvenile Justice or the cabinet, as appropriate, and if the parent is not
20 available, then a relative, guardian, or person exercising custodial control or
21 supervision of the child, that the child has been taken into custody, give an account
22 of specific charges against the child, including the specific statute alleged to have
23 been violated, and the reasons for taking the child into custody.

24 ~~**(4)**~~~~(2)~~ (a) When a peace officer has taken or received a child into protective
25 custody on suspicion of being a runaway, the officer shall immediately notify:

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

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

2 3. The court-designated worker.

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

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

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

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

19 ~~(5)(3)~~ Unless the child is subject to trial as an adult or ~~unless~~ the nature of the
20 offense or other circumstances ~~are such as to~~ indicate the necessity of retaining
21 the child in custody, the officer shall release the child to the custody of:

22 ~~(a)~~ His ***or her*** parent; ~~or~~

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

25 ~~(c)~~ ***1.*** If the parent is not available ***or the child is not committed***, then a
26 relative, guardian, or person exercising custodial control or supervision
27 or other responsible person or agency approved by the court upon the

1 written promise, signed by such person or agency, to bring the child to
2 the court at a stated time or at ~~a~~~~such~~ time as the court may order.

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

8 ~~(6)~~~~(4)~~ (a) If the person fails to produce the child as agreed or upon notice from the
9 court as provided in subsection ~~(5)~~~~(3)~~ of this section, a summons, warrant,
10 or custody order may be issued for the apprehension of the person or of the
11 child, or both.

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

16 ~~(7)~~~~(5)~~ The release of a child pursuant to this section shall not preclude a peace
17 officer from proceeding with a complaint against a child or any other person.

18 ~~(8)~~~~(6)~~ Unless the child is subject to trial as an adult, if the child is not released, the
19 peace officer shall contact the court-designated worker who may:

20 (a) Release the child to his or her parents;

21 (b) Release the child to ~~such~~ other persons or organizations as are authorized by
22 law;

23 (c) Release the child to either of the above subject to stated conditions; or

24 (d) Except as provided in subsection ~~(9)~~~~(7)~~ of this section, authorize the peace
25 officer to retain custody of the child for an additional period not to exceed
26 twelve (12) hours during which the peace officer may transport the child to a
27 secure juvenile detention facility or a nonsecure facility. If the child is

1 retained in custody, the court-designated worker shall give notice to the
2 child's parents or person exercising custodial control or supervision of the fact
3 that the child is being retained in custody.

4 ~~(9)~~(7) (a) Except as provided in paragraph (b) of this subsection, no child ten (10)
5 years of age or under shall be taken to or placed in a juvenile detention
6 facility.

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

12 ➔Section 2. KRS 610.220 is amended to read as follows:

13 (1) Except as otherwise provided by statute, if an officer takes or receives a child into
14 custody on an allegation of committing a public offense or into protective custody
15 on being a suspected runaway, the child may be held at a police station, secure
16 juvenile detention facility, youth alternative center, a nonsecure facility, or, as
17 necessary, in a hospital or clinic for the following purposes:

- 18 (a) Identification and booking;
- 19 (b) Attempting to notify the parents or person exercising custodial control or
20 supervision of the child, a relative, guardian, other responsible person, or the
21 cabinet;
- 22 (c) Photographing;
- 23 (d) Fingerprinting;
- 24 (e) Physical examinations, including examinations for evidence;
- 25 (f) Evidence collection, including scientific tests;
- 26 (g) Records checks;
- 27 (h) Determining whether the child is subject to trial as an adult; and

- 1 (i) Other inquiries of a preliminary nature.
- 2 (2) A child may be held in custody pursuant to this section for a period of time not to
3 exceed two (2) hours, unless an extension of time is granted. Permission for an
4 extension of time may be granted by the court, trial commissioner, or court-
5 designated worker pursuant to KRS 610.200(8)(d)~~[(6)(d)]~~ and the child may be
6 retained in custody for up to an additional ten (10) hours at a facility of the type
7 listed in subsection (1) of this section except for an intermittent holding facility for
8 the period of retention.
- 9 (3) Any child held in custody pursuant to this section shall be sight and sound separated
10 from any adult prisoners held in secure custody at the same location, and shall not
11 be handcuffed to or otherwise securely attached to any stationary object.

12 ➔Section 3. KRS 630.040 is amended to read as follows:

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

- 14 (1) Deliver the child suffering from a physical condition or illness which requires
15 prompt medical treatment to a medical facility or physician. Children suspected of
16 having a mental or emotional illness shall be evaluated in accordance with the
17 provisions of KRS Chapter 645;
- 18 (2) Contact a court designated worker who shall have the responsibility for determining
19 appropriate placement pursuant to KRS 610.200(8)~~[(5)]~~;
- 20 (3) If the court designated worker determines that the placements designated in KRS
21 610.200(8)~~[(5)]~~ and subsection (1) of this section have been exhausted or are not
22 appropriate, a child may be delivered to a secure juvenile detention facility, a
23 juvenile holding facility, or a nonsecure setting approved by the Department of
24 Juvenile Justice pending the detention hearing;
- 25 (4) When the child has not been released to his ***or her*** parents or person exercising
26 custodial control or supervision, the person taking the child into custody shall make
27 a reasonable effort promptly to give oral notice to the parent or person exercising

1 custodial control or supervision of the child;

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

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

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