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KENTUCKY LEGISLATURE

SB 112

2016 Regular Session

AN ACT relating to dangerous instruments.

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

Section 1. KRS 65.870 is amended to read as follows:

(1) No existing or future city, county, urban-county government, charter county, consolidated local government, unified local government, special district, local or regional public or quasi-public agency, board, commission, department, public corporation, or any person acting under the authority of any of these organizations may occupy any part of the field of regulation of the manufacture, sale, purchase, taxation, transfer, ownership, possession, carrying, storage, or transportation of firearms, knives, ammunition, components of firearms and knives, components of ammunition, firearms and knives accessories, or combination thereof.

(2) Any existing or future ordinance, executive order, administrative regulation, policy, procedure, rule, or any other form of executive or legislative action in violation of this section or the spirit thereof is hereby declared null, void, and unenforceable.

(3) Any person or organization specified in subsection (1) of this section shall repeal, rescind, or amend to conform, any ordinance, administrative regulation, executive order, policy, procedure, rule, or other form of executive or legislative action in violation of this section or the spirit thereof within six (6) months after July 12, 2012.

(4) Pursuant to Section 231 of the Constitution of Kentucky, insofar as any person or organization specified in subsection (1) of this section is considered an agent of the Commonwealth, it is the intent of the General Assembly to exempt them from any immunity provided in Section 231 of the Constitution of Kentucky to the extent provided in this section. A person or an organization whose membership is adversely affected by any ordinance, administrative regulation, executive order, policy, procedure, rule, or any other form of executive or legislative action promulgated or caused to be enforced in violation of this section or the spirit thereof may file suit against any person or organization specified in subsection (1) of this section in any court of this state having jurisdiction over any defendant to the suit for declaratory and injunctive relief. A court shall award the prevailing party in any such suit:

(a) Reasonable attorney's fees and costs in accordance with the laws of this state; and

(b) Expert witness fees and expenses.

(5) If any person or organization specified in subsection (1) of this section violates this section or the spirit thereof, the court shall declare the improper ordinance, administrative regulation, executive order, policy, procedure, rule, or other form of executive or legislative action specified in subsection (1) of this section null, void, and unenforceable, and issue a permanent injunction against the person or organization specified in subsection (1) of this section prohibiting the enforcement of such ordinance, administrative regulation, executive order, policy, procedure, rule, or any other form of executive or legislative action specified in subsection (1) of this section.

(6) A violation of this section by a public servant shall be a violation of either KRS 522.020 or 522.030, depending on the circumstances of the violation.

(7) The provisions of this section shall not apply where a statute specifically authorizes or directs an agency or person specified in subsection (1) of this section to regulate a subject specified in subsection (1) of this section.

Section 2. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any of the following:

(a) A weapon of mass destruction;

(b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

~~(c) Any knife other than an ordinary pocket knife or hunting knife;~~

(c) ~~(b)~~ Billy, nightstick, or club;

(d) ~~(c)~~ Blackjack or slapjack;

(e) ~~(d)~~ Nunchaku karate sticks;

(f) ~~(e)~~ Shuriken or death star; or

(g) ~~(f)~~ Artificial knuckles made from metal, plastic, or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be

imposed; and

(18) "Weapon of mass destruction" means:

(a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;

(b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

(c) Any weapon involving a disease organism; or

(d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

Section 3. KRS 15A.0652 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) For committed children may include:

1. A maximum of four (4) months of out-of-home placement if the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than a violation of KRS Chapter 510 or an offense involving a deadly weapon;

2. A maximum of eight (8) months of out-of-home placement if the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than a violation of KRS Chapter 510 or an offense involving a deadly weapon or dangerous instrument; and

3. A provision that if a child has reached the maximum time allowed in out-of-home placement, as specified in subparagraphs 1. and 2. of this paragraph and further out-of-home placement is determined to be necessary for completion of treatment, the child may be held for an additional period only upon approval of the Administrative Transfer Request Committee, or another appropriate entity within the department as designated by the commissioner of the department after review of the facts and circumstances warranting the need for continued out-of-home placement. If the commissioner approves continued out-of-home placement, the maximum time the placement may be continued is the maximum originally allowed under subparagraphs 1. and 2. of this paragraph and the total period of commitment shall not exceed that permitted under KRS 635.060;

(4) Development and implementation of professional development programs for department staff who interact with or who are responsible for the treatment, supervision, or placement of children, that includes training on juvenile justice research relating to effectiveness of juvenile justice interventions, impacts of out-of-home placement, alternatives to incarceration, use of graduated sanctions, case planning, administration of a validated risk and needs assessment, and training to address specific issues such as domestic violence, trauma, and family engagement;

(5) Development of procedures for measuring the outcomes of each treatment and intervention program and practice to demonstrate that the program or practice has a documented evidence base and has been evaluated for effectiveness in reducing recidivism for the children it serves, including:

(a) A process for reviewing the objective criteria for evidence-based programs and practices established by the agency providing the program;

(b) A process for auditing the effectiveness of the programs; and

(c) An opportunity for programs that do not meet the criteria based on the audit results to develop and implement a corrective action plan within one hundred eighty (180) days of the audit;

(6) Development of procedures to track juvenile recidivism, which shall include adjudication of a new public offense or conviction of a crime within three (3) years of release from an out-of-home placement or release from commitment, and collaboration with the Department of Corrections and the Administrative Office of the Courts to obtain adult conviction and incarceration information to enable collection of recidivism data;

(7) Development of procedures to track the pre-adjudication and post-adjudication admissions beginning no later than August 1, 2014; and

(8) Development of procedures to ensure maximum utilization of available federal funding resources which may be available to the agency.

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

Section 4. KRS 158.155 is amended to read as follows:

(1) If a student has been adjudicated guilty of an offense specified in this subsection or has been expelled from school for an offense specified in this subsection, prior to a student's admission to any school, the parent, guardian, principal, or other person or agency responsible for a student shall provide to the school a sworn statement or affirmation indicating on a form provided by the Kentucky Board of Education that the student has been adjudicated guilty or expelled from school attendance at a public or private school in this state or another state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs. The sworn statement or affirmation shall be sent to the receiving school within five (5) working days of the time when the student requests enrollment in the new school.

(2) If any student who has been expelled from attendance at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records, those records shall reflect the charges and final disposition of the expulsion proceedings.

(3) If any student who is subject to an expulsion proceeding at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs

requests transfer of his records to a new school, the records shall not be transferred until that proceeding has been terminated and shall reflect the charges and any final disposition of the expulsion proceedings.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:

(a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:

1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:

a. Carrying, possession, or use of a deadly weapon or dangerous instrument; or

b. Use, possession, or sale of controlled substances; or

2. Any felony offense under the laws of this Commonwealth; and

(b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.

(5) A person who is an administrator, teacher, supervisor, or other employee of a public or private school who receives information from a student or other person of conduct which is required to be reported under subsection (1) of this section shall report the conduct in the same manner as required by that subsection.

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

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

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

(a) Making the report; and

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

Section 5. KRS 158.444 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.

(2) The Kentucky Department of Education shall:

(a) Collaborate with the Center for School Safety in carrying out the center's mission;

(b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:

1. a. All incidents of violence and assault against school employees and students;

b. All incidents of possession of guns, ~~or~~ other deadly weapons, or dangerous instruments on school property or at school functions;

c. All incidents of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions; and

d. All incidents in which a student has been disciplined by the school for a serious incident, including the nature of the discipline, or charged criminally for conduct constituting a violation of any offense specified in KRS Chapter 508; KRS 525.070 occurring on school premises, on school-sponsored transportation, or at school functions; or KRS 525.080;

2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;

3. The number of suspensions, expulsions, and corporal punishments; and

4. Data required during the assessment process under KRS 158.445; and

(c) Provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.

(3) The Department of Education shall provide the Office of Education Accountability and the Education Assessment and Accountability Review Subcommittee with an annual statistical report of the number and types of incidents reported under subsection (2)(b) of this section. The report shall include all monthly data and cumulative data for each reporting year. Reportable incidents shall be grouped in the report in the same manner that the reportable incidents are grouped in subsection (2)(b)1. of this section. Data in the report shall be sorted by individual school district, then by individual schools within that district, and then by individual grades within each school. The report shall not contain information personally identifying any student. The reporting period shall be for an academic year, and shall be delivered no later than August 31 of each year.

(4) All personally identifiable student data collected pursuant to subsection (2)(b) of this section shall be subject to the confidentiality provisions of the Kentucky Family Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its implementing regulations.

(5) Parents, legal guardians, or other persons exercising custodial control or supervision shall have the right to inspect or challenge the personally identifiable student records as permitted under the Kentucky Family Education Rights and Privacy Act and the federal Family Educational Rights and Privacy Act and implementing regulations.

(6) Data collected under this section on an individual student committing an incident reportable under subsection (2)(b)1. of this section shall be placed in the student's disciplinary record.

Section 6. KRS 183.8811 is amended to read as follows:

An air board may utilize electronic equipment or such techniques and procedures as it determines necessary to insure the safety of the public on airplanes and on airport property from persons using or attempting to use bombs, explosives, firearms, dangerous instruments, or other deadly weapons. When a bomb, explosive, dangerous instrument, or other deadly weapon is detected on airport property, or there is good reason to suspect that an individual may have such a device or weapon that he is attempting to conceal from proper authorities, a law enforcement officer, airline employee or air board agent or employee may take prudent and necessary precautionary measures to protect individual lives and property.

Section 7. KRS 411.150 is amended to read as follows:

The surviving spouse and child, under the age of eighteen (18) or either of them, of a person killed by the careless, wanton or malicious use of a deadly weapon or dangerous instrument, not in self-defense, may have an action against the person who committed the killing and all others aiding or promoting, or any one (1) or more of them. In such actions the jury may give vindictive damages.

Section 8. KRS 437.030 is amended to read as follows:

Any person who, in this state, challenges another to fight with any deadly weapon or dangerous instrument, in or out of this state, and any person who accepts the challenge, shall be fined five hundred dollars (\$500) and imprisoned for not less than six (6) nor more than twelve (12) months. Any person who knowingly carries or delivers such a challenge in this state, or consents in this state to be a second to either party shall be fined one hundred dollars (\$100) and imprisoned for thirty (30) days.

Section 9. KRS 508.140 is amended to read as follows:

(1) A person is guilty of stalking in the first degree,

(a) When he intentionally:

1. Stalks another person; and
2. Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:
 - a. Sexual contact as defined in KRS 510.010;
 - b. Serious physical injury; or
 - c. Death; and

(b) 1. A protective order has been issued by the court to protect the same victim or victims and the defendant has been served with the summons or order or has been given actual notice; or

2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or

3. The defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor against the same victim or victims; or

4. The act or acts were committed while the defendant had a deadly weapon or dangerous instrument on or about his person.

(2) Stalking in the first degree is a Class D felony.

Section 10. KRS 508.160 is amended to read as follows:

(1) A person is guilty of disarming a peace officer when he intentionally:

(a) Removes a firearm, ~~or~~ other deadly weapon, or dangerous instrument from the person of a peace officer when the peace officer is acting within the scope of his official duties; or

(b) Deprives a peace officer of the officer's use of a firearm or deadly weapon when the peace officer is acting within the scope of his official duties.

(2) Disarming a peace officer is a Class D felony.

(3) The provisions of this section shall not apply when:

(a) The defendant does not know or could not reasonably have known that the person disarmed was a peace officer; or

(b) The peace officer was, at the time of the disarming or incident thereto, engaged in felonious conduct.

Section 11. KRS 511.020 is amended to read as follows:

(1) A person is guilty of burglary in the first degree when, with the intent to commit a crime, he knowingly enters or remains unlawfully in a building, and when in effecting entry or while in the building or in the immediate flight therefrom, he or another participant in the crime:

(a) Is armed with explosives, a dangerous instrument, or a deadly weapon; or

(b) Causes physical injury to any person who is not a participant in the crime; or

(c) Uses or threatens the use of a dangerous instrument against any person who is not a participant in the crime.

(2) Burglary in the first degree is a Class B felony.

Section 12. KRS 527.060 is amended to read as follows:

Upon the conviction of any person for the violation of any law of this Commonwealth in which a deadly weapon or dangerous instrument was used, displayed or unlawfully possessed by such person the court shall order the weapon forfeited to the state and sold, destroyed or otherwise disposed of in accordance with KRS 500.090.

Section 13. KRS 527.070 is amended to read as follows:

(1) A person is guilty of unlawful possession of a weapon on school property when he knowingly deposits, possesses, or carries, whether openly or concealed, for purposes other than instructional or school-sanctioned ceremonial purposes, or the purposes permitted in subsection (3) of this section, any firearm, any knife other than an ordinary pocket knife or hunting knife, ~~or~~ other deadly weapon, destructive device, or booby trap device in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field, or any other property owned, used, or operated by any board of education, school, board of trustees, regents, or directors for the administration of any public or private educational institution. The provisions of this section shall not apply to institutions of postsecondary or higher education.

(2) Each chief administrator of a public or private school shall display about the school in prominent locations, including, but not limited to, sports arenas, gymnasiums, stadiums, and cafeterias, a sign at least six (6) inches high and fourteen (14) inches wide stating:

UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A TEN THOUSAND DOLLAR (\$10,000) FINE.

Failure to post the sign shall not relieve any person of liability under this section.

(3) The provisions of this section prohibiting the unlawful possession of a weapon on school property shall not apply to:

(a) An adult who possesses a firearm or any knife, if the firearm or knife is contained within a vehicle operated by the adult and is not removed from the vehicle, except for a purpose permitted herein, or brandished by the adult, or by any other person acting with expressed or implied consent of the adult, while the vehicle is on school property;

(b) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a school club or team, to the extent they are required to carry arms or weapons in the discharge of their official class or team duties;

(c) Any peace officer or police officer authorized to carry a concealed weapon pursuant to KRS 527.020;

(d) Persons employed by the Armed Forces of the United States or members of the National Guard or militia when required in the discharge of their official duties to carry arms or weapons;

(e) Civil officers of the United States in the discharge of their official duties. Nothing in this section shall be construed as to allow any person to carry a concealed weapon into a public or private elementary or secondary school building;

(f) Any other persons, including, but not limited to, exhibitors of historical displays, who have been authorized to carry a firearm or any knife by the board of education or board of trustees of the public or private institution;

(g) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the board of education or board of trustees of the educational institution;

(h) A person possessing unloaded hunting weapons while traversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands, unless the lands of the educational institution are posted prohibiting the entry; or

(i) A person possessing guns or knives when conducting or attending a "gun and knife show" when the program has been approved by the board of education or board of trustees of the educational institution.

(4) Unlawful possession of a weapon on school property is a Class D felony.

Section 14. KRS 605.030 is amended to read as follows:

(1) A court-designated worker may:

(a) Receive complaints;

(b) Review complaints taken by peace officers;

(c) Investigate complaints except neglect, abuse, and dependency;

(d) Perform an initial screening for human trafficking as defined in KRS 529.010 for referral to the cabinet for investigation as a case of dependency, neglect, or abuse;

(e) Dispose of complaints limited to a total of three (3) status or nonfelony public offense complaints per child and, with written approval of the county attorney, one (1) felony complaint that does not involve the commission of a sexual offense, ~~or~~ the use of a deadly weapon, or the use of a dangerous instrument;

(f) Administer oaths;

(g) Issue summonses;

(h) Issue subpoenas;

(i) Make advisory dispositional recommendations and provide, within forty-eight (48) hours, exclusive of weekends and holidays, information concerning a child who has chosen to waive the investigation pursuant to KRS 610.100;

(j) Perform such duties as required by KRS Chapter 645;

(k) Administer evidence-based screenings and assessments to identify the risk and needs of a child and his or her family;

(l) Enter into diversion agreements, including referral to programs or service providers, providing case management and service coordination, assisting with barriers to completion, and monitoring progress;

(m) Impose graduated sanctions, from least restrictive to most restrictive, in response to violations of the terms of a diversion agreement;

(n) Gather information necessary to track and record outcomes of all diversion agreement recommendations and final diversion disposition;

(o) Collaborate and cooperate with the family accountability, intervention, and response team, director of pupil personnel as appropriate, and service providers to ensure all appropriate interventions are utilized;

(p) Report annually to his or her local public school districts and to the Administrative Office of the Courts an inventory of all programs and service providers within the judicial district they serve;

(q) Request from the schools a student's education records pursuant to KRS 17.125; and

(r) Perform such other functions related to activities of children as may be authorized or directed by the court.

(2) Upon the filing of a petition which initiates a formal court action in the interest of the child, the court-designated worker's involvement, with the exception of the activities defined in subsection (1)(i) of this section, shall cease.

(3) When a child is to be tried as an adult, the court-designated worker need not make dispositional recommendations.

Section 15. KRS 610.320 is amended to read as follows:

(1) A special record book shall be kept by the court for all cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."

(2) No probation officer, nor employee of a probation officer, shall, without the consent of the District Judge sitting in juvenile session, divulge or communicate to any persons other than the court, law enforcement, the Department of Juvenile Justice, an officer of the court interested in the case, a member of the advisory board of the court, or a representative of the cabinet, any information obtained pursuant to the discharge of his duties, nor shall any record of the action of the probation officer be made public except by leave of the District Judge; provided, that nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, or to another probation officer having a direct interest in the record or social history of the child.

(3) All law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public, except that a separate public record shall be kept by the clerk of the court which shall be accessible to the public for court records, limited to the petition, order of the adjudication, and disposition in juvenile delinquency proceedings concerning a child who is fourteen (14) years of age or older at the time of the commission of the offense, and who is adjudicated a juvenile delinquent for the commission of an offense that would constitute a capital offense or a Class A, B, or C felony if the juvenile were an adult, or any offense involving a deadly weapon, or an offense wherein a deadly weapon or dangerous instrument is used or displayed.

(4) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act is also prohibited. Otherwise, the law enforcement records shall be made available to the child, family, guardian, or legal representative of the child involved. The records shall also be made available to the court, probation officers, prosecutors, the Department of Juvenile Justice, and law enforcement agencies or representatives of the cabinet. Records, limited to the child's adjudication of delinquency, and disposition of a criminal activity covered by KRS 610.345, shall also be made available to public or private elementary and secondary school administrative, transportation, and counseling personnel, and to any teacher to whose class the student has been assigned for instruction, subject to the provisions of KRS 610.340 and 610.345.

(5) Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense which would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial, and may be used during the sentencing phase of a criminal trial. However, the fact that a juvenile has been adjudicated delinquent of an offense which would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication.

(6) This section shall not relieve the probation officer or peace officer from divulging such facts as a witness in

a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of juvenile records for use in the trial or proceedings.

(7) This section shall not prohibit release of information regarding juvenile proceedings in the District Court which do not reveal the identity of the child or its parents or guardians, or which relate to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court.

Section 16. KRS 610.345 is amended to read as follows:

(1) When a child is adjudicated guilty of an offense which classifies him or her as a youthful offender, the judge in the court in which the matter was tried shall direct the clerk to notify the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school which the child attends of the adjudication and the petition and disposition of the case. The name of the complainant shall be deleted. The court shall direct the appropriate prosecuting entity to give the school district or the school a statement of facts in the case. The superintendent shall notify the principal of the school in which the child is enrolled.

(2) When a child is adjudicated guilty of an offense which would classify him or her as a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A, 508, 510, or 527 if committed by an adult, but which would not classify him or her as a youthful offender, the judge in the court in which the matter was tried shall direct the clerk to notify within five (5) days of the order the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school which the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. The court shall authorize the county attorney to give the school district or the school a statement of facts in the case. The superintendent shall notify the principal of the school in which the child is enrolled.

(3) When a petition is filed against a child, or a child is adjudicated guilty of an offense that would be a felony or misdemeanor if committed by an adult, and the misdemeanor involves a controlled substance or the possession, carrying, or use of a deadly weapon or dangerous instrument, or physical injury to another person, the judge in the court in which the matter is considered shall direct the clerk to notify the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school that the child attends of the charge, the adjudication, and the disposition of the case. The notification shall be made within twenty-four (24) hours of the time when the petition is filed. The name of the complainant shall be deleted. The court shall authorize the county attorney to give the school district or the school a statement of the facts in the case, not to include the complainant's name. If the petition is dismissed, all records of the incident or notification created in the school district or the school under this subsection shall be destroyed, and shall not be included in the child's school records.

(4) Notice of adjudication to a district superintendent referenced in subsections (2) and (3) of this section shall be released by the superintendent to the principal. A principal of a public or private school receiving notice of adjudication shall release the information to employees of the school having responsibility for classroom instruction or counseling of the child and may release it to other school personnel as described in subsection (5) of this section, but the information shall otherwise be confidential and shall not be shared by school personnel with any other person or agency except as may otherwise be required by law. The notification in writing of the nature of the offense committed by the child and any probation requirements shall not become a part of the child's student record.

(5) Records or information disclosed pursuant to this section shall be limited to records of that student's criminal petition and the disposition thereof covered by this section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall not be disclosed to any other person, including school personnel, except to a district superintendent, public or private elementary and secondary school administrative, transportation, and counseling personnel, and to any teacher or school employee with whom the student may come in contact. This section shall not authorize the disclosure of any other juvenile record or information relating to the child.

(6) The Department of Juvenile Justice shall provide a child's offense history information pursuant to this section to the superintendent of the local school district in which the child, who is committed to the department, is placed.

(7) Records or information received by the school pursuant to this section shall be kept in a locked file, when not in use, to be opened only on permission of the administrator.

Section 17. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may impose any combination of the following, except that the court shall, if a validated risk and needs assessment tool is available, consider the validated risk and needs assessment submitted to the court and parties by the Department of Juvenile Justice or other agency before imposing any disposition:

(1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no

parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency;

(2) (a) Place the child:

1. Under parental supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine, or

2. On probation under conditions that the court shall determine.

(b) 1. At the time the child is placed on probation, the court shall explain to the child the sanctions which may be imposed if the court's conditions are violated, and shall include notice of those sanctions as part of its written order of probation. A child placed on probation shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice.

2. The conditions of probation shall include authorization for the use of graduated sanctions prior to a court review for the imposition of a term of detention. If the court has previously imposed graduated sanctions for a violation of conditions of supervision by a child monitored by the court, or makes a finding that the graduated sanctions have previously been imposed for a child on probation, then the court may impose a sanction of up to thirty (30) days' detention for a violation of the conditions of supervision or probation. A court may not impose detention prior to use of graduated sanctions unless there is clear and convincing evidence that there are no graduated sanctions available that are appropriate for the child and the child is an immediate threat to himself or others. Except where commitment has been probated pursuant to subsection (5) of this section, a child may not be committed or recommitted to the Department of Juvenile Justice for a violation of a condition of probation.

(c) A child placed on probation or supervision with court monitoring shall remain subject to the jurisdiction of the court as follows, except that if a person is placed on probation after the person reaches the age of seventeen (17) years and six (6) months, the probation shall be for a period not to exceed one (1) year:

1. If the child was adjudicated for an offense that would be a violation if committed by an adult, the period of probation or supervision shall not exceed thirty (30) days, except that the court may order up to three (3) months of supervision if the court-ordered treatment includes a program that requires longer than thirty (30) days to complete;

2. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon or dangerous instrument, the period of probation or supervision shall not exceed six (6) months, except that the court may order up to twelve (12) months of supervision if the court-ordered substance abuse or mental health treatment includes a program that requires longer than six (6) months to complete;

3. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the period of probation or supervision shall not exceed twelve (12) months; or

4. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or for an offense involving a deadly weapon or dangerous instrument, or for an offense in which the child has not been declared a sexual offender pursuant to KRS 635.510, the child may be placed on probation up to age eighteen (18);

(3) (a) If the child was adjudicated for an offense other than an offense that would be a violation if committed by an adult, order the child confined in an approved secure detention facility or detention program, as authorized by KRS Chapter 15A, as follows:

1. If the child is fourteen (14) years of age but less than sixteen (16) years of age, the child may be confined for a period of time not to exceed forty-five (45) days; or

2. If the child is sixteen (16) years of age or older, the child may be confined for a period of time not to exceed ninety (90) days.

(b) The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to this subsection in accordance with the statewide detention plan and administrative regulations implementing the plan;

(4) (a) Order the child to be committed or recommitted to the custody of the Department of Juvenile Justice, grant guardianship to a child-caring facility or a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person if:

1. The child was adjudicated for an offense that would be a misdemeanor or Class D felony if committed by an

adult and the child has at least three (3) prior adjudications, excluding prior adjudications of offenses designated as a violation, or at least four (4) prior adjudications of violations, which do not arise from the same course of conduct; or

2. The child was adjudicated for an offense involving a deadly weapon or dangerous instrument, an offense in which the child has been declared a juvenile sexual offender under KRS 635.510, or an offense that would be a felony offense if committed by an adult, other than a Class D felony.

(b) The commitment shall be for the following term, subject to KRS 635.070 and the power of the court to terminate the order and discharge the child prior thereto:

1. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon or dangerous instrument, the child may be committed for a period not to exceed twelve (12) months, including all time spent in the treatment plan established pursuant to KRS 15A.0652;

2. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon or dangerous instrument, the child may be committed for a period not to exceed eighteen (18) months, including all time spent in the treatment plan established pursuant to KRS 15A.0652;

3. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or an offense involving a deadly weapon or dangerous instrument, the child may be committed up to age eighteen (18);

4. If the child was adjudicated for an offense that results in the child being declared a juvenile sexual offender, the commitment shall be as provided in KRS 635.515;

5. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; and

6. If a child is committed after the child reaches the age of seventeen (17) years and six (6) months, and except as provided in subparagraph 4. of this paragraph, the commitment shall be for a period not to exceed one (1) year.

(c) The Department of Juvenile Justice shall:

1. Accept physical custody of a child who is detained in an approved secure juvenile detention facility in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice. The Department of Juvenile Justice shall remove the child from the approved secure juvenile detention facility and secure appropriate placement as soon as possible but not to exceed thirty-five (35) days of the time of commitment or recommitment; and

2. Pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed.

(d) All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public; or

(5) (a) The court may probate or suspend a commitment ordered pursuant to subsection (4) of this section, except that if a court probates or suspends a commitment in conjunction with any other dispositional alternative, that fact shall be explained to the juvenile and contained in a written order.

(b) Any probation or suspension imposed shall not exceed the time limitations established under subsection (2) of this section.

(c) If the child successfully completes the conditions of probation, the court shall terminate the case.

(d) 1. The court may, for violations of the conditions of probation, revoke the probation or suspension ordered under this section and order the child committed.

2. The period of the commitment shall not exceed the terms established under subsection (4) of this section.

3. Any time a child has spent in out-of-home placement as a result of a violation of a condition of probation or suspension under this section shall be credited toward the period of commitment.

4. If a commitment is probated or suspended after a child reaches the age of seventeen (17) years and six (6) months, the period of the suspension, and commitment if revoked, shall be for a period not to exceed one (1) year, but

not to exceed age nineteen (19).

Section 18. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A;
- (7) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;
- (8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (9) "Certified mail" means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:
 - (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted; and
 - (c) The signature of the receipt of the document or package;
- (10) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (11) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (12) "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;
- (13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (14) "Directors," when applied to corporations, includes managers or trustees;
- (15) "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;
- (16) "Domestic animal" means any animal converted to domestic habitat;
- (17) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;

(18) "Federal" refers to the United States;

(19) "Foreign," when applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state;

(20) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(21) "Graduated sanction" means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;

(22) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(23) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(24) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(25) "Legatee" and "devisee" convey the same idea;

(26) "May" is permissive;

(27) "Month" means calendar month;

(28) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(29) "Owner" when applied to any animal, means any person having a property interest in such animal;

(30) "Partnership" includes both general and limited partnerships;

(31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(32) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(33) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;

(34) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;

(36) "Registered mail" means any governmental, commercial, or electronic method of delivery that allows a document or package to have:

(a) Its chain of custody recorded in a register to enable its location to be tracked;

(b) Insurance available to cover its loss; and

(c) The signature of the recipient of the document or package available to the sender;

(37) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(38) "Risk and needs assessment" or "validated risk and needs assessment" means an actuarial tool scientifically proven to determine a person's risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person's likelihood of committing future criminal behavior;

(39) "Shall" is mandatory;

(40) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(41) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(42) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;

(43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(44) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. "Treatment" does not include medical services;

(45) "United States" includes territories, outlying possessions, and the District of Columbia;

(46) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(47) "Violate" includes failure to comply with;

(48) "Will" includes codicils; "last will" means last will and testament;

(49) "Year" means calendar year;

(50) "City" includes town;

(51) Appropriation-related terms are defined as follows:

(a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

(b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in a branch budget bill as provided for in KRS Chapter 48;

(52) "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations;

(53) "Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year;

(54) "Branch budget bill" or "branch budget" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet;

(55) "AVIS" means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards; ~~and~~

(56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative association; and

(57) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.

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