

1 AN ACT relating to juvenile justice.

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

3 ➔Section 1. KRS 610.345 is amended to read as follows:

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

13 (2) When a child is adjudicated guilty of an offense which would classify him or her as  
14 a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A,  
15 508, 510, or 527 if committed by an adult, but which would not classify him or her  
16 as a youthful offender, the ~~judge in the court in which the matter was tried shall~~  
17 ~~direct the clerk~~ ***shall*** ~~to~~ notify ~~[within five (5) days of the order]~~ the  
18 superintendent of the public school district in which the child is enrolled or the  
19 principal of any private elementary or secondary school which the child attends of  
20 the charge, the adjudication, and the disposition of the case.~~[The name of the~~  
21 ~~complainant shall be deleted. The court shall authorize the county attorney to give~~  
22 ~~the school district or the school a statement of facts in the case. The superintendent~~  
23 ~~shall notify the principal of the school in which the child is enrolled.]~~

24 (3) When a ***court-designated worker receives notice that a county attorney has made***  
25 ***a determination pursuant to KRS 635.010(1) that probable cause exists to file a***  
26 ***public offense petition alleging that the child committed an offense that, if***  
27 ***committed by an adult, would be a:***

1 (a) Felony; or

2 (b) Misdemeanor involving:

3 1. A controlled substance;

4 2. The possession, carrying, or use of a deadly weapon;

5 3. Physical injury to another person;

6 4. Sexual contact;

7 5. Sexual intercourse; or

8 6. Deviate sexual intercourse;

9 the court-designated worker shall notify the superintendent of the public school  
 10 district in which the child is enrolled or the principal of any private elementary or  
 11 secondary school which the child attends of the charge. If the complaint is  
 12 successfully diverted, the court-designated worker shall notify the superintendent  
 13 or the principal of the successful diversion, and all records of the incident or  
 14 notification created in the school district or the school under this subsection shall  
 15 be destroyed and shall not be included in the child's school records.

16 (4) When ~~petition is filed against a child, or~~ a child is adjudicated guilty of an offense  
 17 that meets the criteria set forth in subsection (3)(a) or (b) of this section, ~~would~~  
 18 ~~be a felony or misdemeanor if committed by an adult, and the misdemeanor~~  
 19 ~~involves a controlled substance or the possession, carrying, or use of a deadly~~  
 20 ~~weapon, or physical injury to another person, the judge in the court in which the~~  
 21 ~~matter is considered shall direct~~ the clerk shall ~~to~~ notify the superintendent of the  
 22 public school district in which the child is enrolled or the principal of any private  
 23 elementary or secondary school that the child attends of the charge, the  
 24 adjudication, and the disposition of the case. If the petition is dismissed or  
 25 informally adjusted, the clerk shall notify the superintendent or the principal of  
 26 the disposition, and all records of the incident or notification created in the  
 27 school district or the school under this subsection shall be destroyed and shall not

1        *be included in the child's school records.*

2        (5) The *notifications required in subsection (1) to (4) of this section*~~[notification]~~ shall  
3        be made within twenty-four (24) hours of the *county attorney's determination*  
4        *pursuant to KRS 635.010(1), successful completion of diversion, or entry of the*  
5        *court order*~~[time when the petition is filed]~~. The name of the complainant shall be  
6        deleted. The~~[ court shall authorize the ]~~ county attorney *may, upon request by*~~[to~~  
7        ~~give]~~ the school district or the school, *provide* a statement of the facts in the case,  
8        not to include the complainant's name.~~[ If the petition is dismissed, all records of~~  
9        ~~the incident or notification created in the school district or the school under this~~  
10       ~~subsection shall be destroyed, and shall not be included in the child's school~~  
11       ~~records.]~~

12       (6)~~[(4)]~~ Notice~~[ of adjudication]~~ to a district superintendent referenced in subsections  
13       (1) to (4)~~[(2) and (3)]~~ of this section shall be released by the superintendent to the  
14       principal *of the school in which the child is enrolled.* A principal of a public or  
15       private school receiving notice~~[ of adjudication]~~ shall release the information to  
16       employees of the school having responsibility for classroom instruction or  
17       counseling of the child and may release it to other school personnel as described in  
18       subsection (7)~~[(5)]~~ of this section, but the information shall otherwise be  
19       confidential and shall not be shared by school personnel with any other person or  
20       agency except as may otherwise be required by law. The notification in writing of  
21       the nature of the offense committed by the child and any probation requirements  
22       shall not become a part of the child's student record.

23       (7)~~[(5)]~~ Records or information disclosed pursuant to this section shall be limited to  
24       records of that student's criminal petition and the disposition thereof covered by this  
25       section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall  
26       not be disclosed to any other person, including school personnel, except to a district  
27       superintendent, public or private elementary and secondary school administrative,

1 transportation, and counseling personnel, and to any teacher or school employee  
 2 with whom the student may come in contact. This section shall not authorize the  
 3 disclosure of any other juvenile record or information relating to the child.

4 ~~(8)~~~~(6)~~ The Department of Juvenile Justice shall provide a child's offense history  
 5 information pursuant to this section to the superintendent of the local school district  
 6 in which the child, who is committed to the department, is placed.

7 ~~(9)~~~~(7)~~ Records or information received by the school pursuant to this section shall:

8 (a) Be kept in a locked file, when not in use, to be opened only on permission of  
 9 the administrator; and

10 (b) For the purposes of destruction required in this section, not include  
 11 education records, as defined in KRS160.700, created by the school.

12 ➔Section 2. KRS 158.448 is amended to read as follows:

13 The Kentucky Department of Education shall develop protocols for student records  
 14 within the student information system which:

15 (1) Provide notice to schools receiving the records ~~[of prior offenses]~~ described in  
 16 Section 1 of this Act~~[KRS 610.345]~~ relating to~~[committed by]~~ a student  
 17 transferring to a new school or district;

18 (2) Promote expeditious enrollment and placement of students in foster care who are  
 19 transferring to a new school or district, in accordance with the federal Every  
 20 Student Succeeds Act of 2015, Pub. L. No. 114-95;

21 (3) Promote the sharing of information regarding students in foster care among schools,  
 22 districts, the Cabinet for Health and Family Services, and a child's caseworker,  
 23 pursuant to applicable law; and

24 (4) Protect the privacy rights of students and parents guaranteed under the federal  
 25 Family Educational Rights and Privacy Act.

26 ➔Section 3. KRS 158.153 is amended to read as follows:

27 (1) Unless the action is taken pursuant to KRS 158.150, no school, school

1 administrator, teacher, or other school employee shall expel or punish a child based  
2 on information contained in a record of an adjudication of delinquency or  
3 conviction of an offense received by the school pursuant to KRS 610.345 or from  
4 any other source. Nothing in this subsection shall be construed to prohibit a local  
5 school board or school official from instituting disciplinary proceedings against any  
6 student for violating the discipline policy of the school or school district or taking  
7 actions necessary to protect staff and students. Actions to protect staff and students  
8 may be taken only after the principal makes a determination that the conduct of the  
9 student reflected in the records of the school or obtained by the school from the  
10 court indicates a substantial likelihood of an immediate and continuing threat that  
11 the student will cause harm to students or staff, and that the restrictions to be  
12 ordered represent the least restrictive alternative available and appropriate to  
13 remedy the threat, and that the determination and supporting material be  
14 documented in the child's record. The action of the principal, in addition to or in  
15 lieu of any other procedure available, may be appealed by the child or the child's  
16 parent or guardian to the superintendent of the school system or to the Circuit Court  
17 in the county in which the school is located, and the appealing party may be  
18 represented by counsel.

19 (2) *Except as provided in Section 1 of this Act,* no school, school administrator,  
20 teacher, or other school employee who has custody of records received or  
21 maintained by the school pursuant to KRS 610.345 or who has received information  
22 contained in or relating to a record received by the school pursuant to KRS 610.345  
23 shall disclose the fact of the record's existence, or any information contained in the  
24 record or received from the record to any other person, including but not limited to  
25 other teachers, school employees, pupils, or parents other than the pupil, or parents  
26 of the pupil who is the subject of the record.

27 (3) The child and his parent or guardian shall have a civil cause of action against the

1 school board and against any school administrator violating subsection (1) or (2) of  
2 this section or divulging information in violation of KRS 610.345 or 610.340. This  
3 civil cause of action shall be in addition to any other criminal or administrative  
4 remedy provided by law.

5 (4) Nothing in this section shall be construed to prohibit a local board of education  
6 from establishing districtwide standards of behavior for students who participate in  
7 extracurricular and cocurricular activities, including athletics. A school principal  
8 may deny or terminate a student's eligibility to participate in extracurricular or  
9 cocurricular activities if the student has violated the local district behavior standards  
10 or the council's criteria for participation, as described in KRS 160.345(2)(i)8. A  
11 student's right to participate in extracurricular or cocurricular activities, including  
12 athletics, may be suspended, pending investigation of an allegation that the  
13 standards of behavior have been violated.