

1 AN ACT relating to open juvenile proceedings.

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

3 ➔Section 1. KRS 610.070 is amended to read as follows:

4 (1) All cases involving children brought before the court whose cases are under the
5 jurisdiction of the court shall be granted a speedy hearing and shall be dealt with by
6 the court without a jury.

7 (2) The hearings shall be conducted in a formal manner, unless specified to the contrary
8 by other provisions of KRS Chapters 600 to 645.

9 (3) **Except as otherwise provided in this section,**~~[The general public shall be excluded~~
10 ~~and only]~~ the **following persons shall be admitted to any hearing held under**
11 **subsection (1) of this section:**

12 **(a)** Immediate families or guardians of the parties before the court:~~[,]~~

13 **(b)** Witnesses necessary for the prosecution and defense of the case:~~[,]~~

14 **(c)** The probation worker with direct interest in the case:~~[,]~~

15 **(d)** A representative from the Department of Juvenile Justice:~~[,]~~

16 **(e)** The victim:~~[,]~~

17 **(f)** **The victim's**~~[his]~~ parent or legal guardian, or if emancipated, **the victim's**~~[his]~~
18 spouse, or a legal representative of either:~~[, such]~~

19 **(g)** **Other** persons ~~that~~~~[admitted as]~~ the judge **finds**~~[shall find]~~ have a direct
20 interest in the case or in the work of the court:~~[,]~~ ~~and~~~~[such]~~

21 **(h)** Other persons as agreed to by the child and his attorney~~[may be admitted to~~
22 ~~the hearing]~~.

23 **(4)** A parent, legal guardian, or spouse if a witness shall be admitted to the hearing only
24 during and after his **or her** testimony at the hearing, and witnesses shall be admitted
25 to the hearing only for the duration of their testimony.

26 **(5)** The court may order the exclusion of a parent, legal guardian, or spouse, if it is
27 shown to the satisfaction of the court that the parent, legal guardian, or spouse may

1 physically disrupt the proceedings or may do violence to any participant therein.
2 The mere presence of a parent, legal guardian, or spouse shall not be deemed to be a
3 disruption of the proceedings merely because their presence may make the
4 defendant uncomfortable; the court shall find a potential for actual physical
5 disruption of the proceedings before an exclusion may be granted for this reason.

6 (6) No member of the general public shall be excluded from a proceeding related to
7 dependency, neglect, and abuse under KRS Chapter 620, or related to
8 termination of parental rights under KRS Chapter 625, unless the court
9 determines upon motion of a party or upon its own motion that it is in the best
10 interest of the child to close the hearing or any part of the hearing. The party
11 seeking closure of the hearing shall have the burden of proof.

12 (7) In determining whether closure of a hearing to the general public is in the best
13 interest of the child or the public, the court shall give priority to the best interest
14 of the child and shall also consider all relevant circumstances of the case,
15 including but not limited to:

16 (a) The nature of the allegations;

17 (b) The age and maturity level of the child;

18 (c) The benefit to the child, family, and public of maintaining confidentiality;

19 (d) The benefit to the public of an open hearing;

20 (e) The effect of confidentiality on the fact-finding process;

21 (f) The wishes of the parties, victims, and the parents of any children involved
22 in the case; and

23 (g) Whether reasonable alternatives to closure are available.

24 (8) The court shall make written findings of fact and conclusions of law to support
25 an order of closure under subsection (7) of this section, and any order of closure
26 shall be specific and no broader than is necessary to protect the interest asserted
27 by the party seeking closure.

1 (9) Unless otherwise authorized by law, a court conducting a hearing under this
2 section shall not:

3 (a) Release any record discussed at any open proceeding prior to, at, or after
4 the proceeding which is made confidential pursuant to law;

5 (b) Permit audio, visual, or other recording of the proceeding by any person
6 who is attending the proceeding, a party to the proceeding, or testifying at
7 the proceeding;

8 (c) Permit any audio, visual, or other recording of the proceedings for official
9 court purposes to be made a public record, copied, or released to the public;
10 or

11 (d) Permit any member of the public attending the proceeding, who is not a
12 party to the proceeding, and who is not testifying at the proceeding, to
13 disclose the name or personal identifying information of any person who is
14 a party to a proceeding of testifying at a proceeding, outside of the
15 courtroom.

16 (10) The Supreme Court may establish by rule a procedure to require each member of
17 the public attending a hearing not to disclose the name or personal identifying
18 information regarding any person who is a party to the proceeding, or person
19 testifying at the proceeding.

20 (11) A person may take written notes during a hearing, and remove them from the
21 courtroom following the hearing, provided that no name or personal identifying
22 information of any minor who is a party to the proceeding or testifying at the
23 proceeding shall be taken from the courtroom. The provisions of this subsection
24 are not intended to apply to, and shall not limit the use or publication of, any
25 information obtained by means other than attendance at a proceeding authorized
26 by this section.

27 (12)~~(4)~~ The court may order the parents, guardians, or persons exercising custodial

1 control over the child to be present at any hearing or other proceeding involving the
2 child.

3 ➔Section 2. KRS 610.105 is amended to read as follows:

4 (1) Upon the court's motion or the motion of any party, following notice to the county
5 attorney, an informal adjustment may be made at any time during the proceedings
6 and with the victim and with those persons specified in subsection (3) of Section 1
7 of this Act~~[KRS 610.070]~~ having prior notification of the motion.

8 (2) An informal adjustment does not require adjudication of the case. If an adjudication
9 has occurred, the court shall dismiss the case following successful completion under
10 subsection (3) of this section.

11 (3) If the court orders an informal adjustment, the order may include any of the
12 following:

13 (a) Referral of the case to diversion, but, if the child does not successfully
14 complete the terms of the diversion, the case shall not be dismissed as a result
15 of the diversion but shall be returned to court; or

16 (b) Placement of the child on community supervision or monitoring by the court
17 under the informal adjustment with additional conditions as determined
18 appropriate by the court for a period not to exceed six (6) months.

19 ➔Section 3. KRS 610.340 is amended to read as follows:

20 (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise,
21 all juvenile court records of any nature generated pursuant to KRS Chapters
22 600 to 645 by any agency or instrumentality, public or private, shall be
23 deemed to be confidential and shall not be disclosed except to the child,
24 parent, victims, or other persons authorized to attend a juvenile court hearing
25 pursuant to subsection (3) of Section 1 of this Act~~[KRS 610.070]~~ unless
26 ordered by the court for good cause.

27 (b) Juvenile court records which contain information pertaining to arrests,

1 petitions, adjudications, and dispositions of a child may be disclosed to
2 victims or other persons authorized to attend a juvenile court hearing pursuant
3 to subsection (3) of Section 1 of this Act~~[KRS 610.070]~~.

4 (c) Release of the child's treatment, medical, mental, or psychological records is
5 prohibited unless presented as evidence in Circuit Court. Any records
6 resulting from the child's prior abuse and neglect under Title IV-E or Title IV-
7 B of the Federal Social Security Act shall not be disclosed to victims or other
8 persons authorized to attend a juvenile court hearing pursuant to KRS
9 610.070.

10 (d) Victim access under this subsection to juvenile court records shall include
11 access to records of adjudications that occurred prior to July 15, 1998.

12 (2) The provisions of this section shall not apply to public officers or employees
13 engaged in the investigation of and in the prosecution of cases under KRS Chapters
14 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained
15 pursuant to this subsection shall be used for official use only, shall not be disclosed
16 publicly, and shall be exempt from disclosure under the Open Records Act, KRS
17 61.870 to 61.884.

18 (3) The provisions of this section shall not apply to any peace officer, as defined in
19 KRS 446.010, who is engaged in the investigation or prosecution of cases under
20 KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any
21 record obtained pursuant to this subsection shall be used for official use only, shall
22 not be disclosed publicly, and shall be exempt from disclosure under the Open
23 Records Act, KRS 61.870 to 61.884.

24 (4) The provisions of this section shall not apply to employees of the Department of
25 Juvenile Justice or cabinet or its designees responsible for any services under KRS
26 Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS
27 Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised

1 Statutes.

2 (5) The provisions of this section shall not apply to records disclosed pursuant to KRS
3 610.320 or to public or private elementary and secondary school administrative,
4 transportation, and counseling personnel, to any teacher or school employee with
5 whom the student may come in contact, or to persons entitled to have juvenile
6 records under KRS 610.345, if the possession and use of the records is in
7 compliance with the provisions of KRS 610.345 and this section.

8 (6) No person, including school personnel, shall disclose any confidential record or any
9 information contained therein except as permitted by this section or other specific
10 section of KRS Chapters 600 to 645, or except as permitted by specific order of the
11 court.

12 (7) No person, including school personnel, authorized to obtain records pursuant to
13 KRS Chapters 600 to 645 shall obtain or attempt to obtain confidential records to
14 which he is not entitled or for purposes for which he is not permitted to obtain them
15 pursuant to KRS Chapters 600 to 645.

16 (8) No person, including school personnel, not authorized to obtain records pursuant to
17 KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made
18 confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a
19 court of competent jurisdiction.

20 (9) No person shall destroy or attempt to destroy any record required to be kept
21 pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to
22 KRS Chapters 600 to 645 and is authorized by the court upon proper motion and
23 good cause for the destruction being shown.

24 (10) As used in this section the term "KRS Chapters 600 to 645" includes any
25 administrative regulations which are lawfully promulgated pursuant to KRS
26 Chapters 600 to 645.

27 (11) Nothing in this section shall be construed to prohibit a crime victim from speaking

1 publicly after the adjudication about his or her case on matters within his or her
2 knowledge or on matters disclosed to the victim during any aspect of a juvenile
3 court proceeding.

4 ➔Section 4. The following KRS sections are repealed:

5 21A.190 Pilot project to study the feasibility and desirability of conducting some open
6 juvenile proceedings.

7 21A.192 Procedures for courts participating in pilot project authorized by KRS
8 21A.190.