

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 subsection  
9 (3) of Section 1 of this Act~~[KRS 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) The provisions of this section shall not apply to employees of local law  
9 enforcement agencies, the Department of Kentucky State Police, or the Federal  
10 Bureau of Investigation engaged in conducting background checks for the sole  
11 purpose of identifying and providing potentially disqualifying juvenile public  
12 offense records to the National Instant Criminal Background Check System  
13 pursuant to Div. A, Title II, Sec. 12001(a) of the Bipartisan Safer Communities Act,  
14 Pub. L. No. 117-159. Notwithstanding KRS 635.040, an adjudication for a public  
15 offense is a conviction of a crime for purposes of 18 U.S.C. sec. 922(d)(1), (3), or  
16 (9). Any public offense record obtained pursuant to this subsection shall be used for  
17 official use only, not be disclosed publicly, and be exempt from disclosure under  
18 the Open Records Act, KRS 61.870 to 61.884.

19 (7) (a) The provisions of this section shall not apply to records or proceedings in any  
20 case in which a child has made an admission to or been adjudicated for a  
21 violent felony offense as defined in KRS 532.200 until the expiration of a  
22 three (3) year period from the date of admission or adjudication.

23 (b) If the child has not received any additional public offense convictions during  
24 the three (3) year period from the date of admission or adjudication, all  
25 records in the case shall be automatically sealed and shall not be disclosed  
26 consistent with the provisions of this section.

27 (c) As used in this subsection, "admission" means a formal admission in a case,

1 on the record, upon the waiving of an adjudication hearing.

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

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

10 (10) No person, including school personnel, not authorized to obtain records pursuant to  
11 KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made  
12 confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a  
13 court of competent jurisdiction.

14 (11) No person shall destroy or attempt to destroy any record required to be kept  
15 pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to  
16 KRS Chapters 600 to 645 and is authorized by the court upon proper motion and  
17 good cause for the destruction being shown.

18 (12) As used in this section the term "KRS Chapters 600 to 645" includes any  
19 administrative regulations which are lawfully promulgated pursuant to KRS  
20 Chapters 600 to 645.

21 (13) Nothing in this section shall be construed to prohibit a crime victim from speaking  
22 publicly after the adjudication about his or her case on matters within his or her  
23 knowledge or on matters disclosed to the victim during any aspect of a juvenile  
24 court proceeding.

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

26 21A.190 Pilot project to study the feasibility and desirability of conducting some open  
27 juvenile proceedings.

- 1 21A.192 Procedures for courts participating in pilot project authorized by KRS
- 2 21A.190.
- 3 610.072 Attendance of public at hearings in courts participating in pilot project
- 4 authorized by KRS 21A.190.