AN ACT relating to the prevention of child abuse and exploitation.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Criminal offense against a minor" means a conviction or guilty plea to any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:

(a) Kidnapping, as in KRS 509.040, except by a parent;

(b) Unlawful imprisonment, as in KRS 509.020, except by a parent;

(c) Sexual misconduct, as in KRS 510.140;

(d) Use of a minor in a sexual performance, as in KRS 531.310;

(e) Promoting a sexual performance by a minor, as in KRS 531.320;

(f) Possession or viewing of matter portraying a sexual performance by a minor, as in KRS 531.335;

(g) Distribution of matter portraying a sexual performance by a minor, as in KRS 531.340;

(h) Promoting sale of material portraying a sexual performance by a minor, as in KRS 531.350;

(i) Advertising material portraying a sexual performance by a minor, as in KRS 531.360;

(j) Using minors to distribute material portraying a sexual performance by a minor, as in KRS 531.370;

(k) Human trafficking involving commercial sexual activity, as in KRS 529.100;

(l) Promoting prostitution, as in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

1 ***(m) Unlawful transaction with a minor in the first degree, as in KRS***
2 ***530.064(1)(a);***
3 ***(n) Any attempt to commit any of the offenses described in paragraphs (a) to***
4 ***(m) of this subsection; or***
5 ***(o) Solicitation to commit any of the offenses described in paragraphs (a) to (m)***
6 ***of this subsection;***
7 ***(2) "Sex crime" means a conviction or a plea of guilty to any of the following***
8 ***offenses:***
9 ***(a) Rape in the first degree, as in KRS 510.040;***
10 ***(b) Rape in the second degree, as in KRS 510.050;***
11 ***(c) Rape in the third degree, as in Section 15 of this Act;***
12 ***(d) Sodomy in the first degree, as in KRS 510.070;***
13 ***(e) Sodomy in the second degree, as in KRS 510.080;***
14 ***(f) Sodomy in the third degree, as in Section 16 of this Act;***
15 ***(g) Sodomy in the fourth degree, as in KRS 510.100;***
16 ***(h) Sexual abuse in the first degree, as in KRS 510.110;***
17 ***(i) Sexual abuse in the second degree, as in KRS 510.120;***
18 ***(j) Sexual abuse in the third degree, as in KRS 510.130;***
19 ***(k) Indecent exposure in the first degree, as in KRS 510.148;***
20 ***(l) Indecent exposure in the second degree, as in KRS 510.150;***
21 ***(m) Unlawful use of electronic means originating or received within the***
22 ***Commonwealth to induce a minor to engage in sexual or other prohibited***
23 ***activities, as in KRS 510.155; or***
24 ***(n) Incest, as in KRS 530.020;***
25 ***(3) "Violent offender" means a person who has been convicted of or who has***
26 ***entered a guilty plea to the commission of a capital offense, Class A felony, Class***
27 ***B felony involving the death of or serious physical injury to the victim, rape in the***

first degree, or sodomy in the first degree; and

(4) "Youth camp" or "camp" means:

(a) Any camp required to obtain a permit to operate pursuant to KRS 211.180; and

(b) Any program offered, whether free or for a fee, for recreational, educational, sports training, or vacation purposes to children under eighteen (18) years of age that a child attends outside the presence of his or her parent or legal guardian.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 4 of this Act shall not apply to:

(1) Public school districts or programs sponsored by the school district;

(2) Private schools;

(3) (a) Child-care centers;

(b) Child-caring and child-placing agencies;

(c) Family child-care homes; and

(d) Foster care, relative caregiver services, or adoptive homes otherwise governed by KRS Chapter 199; or

(4) Babysitting or child-care arrangements made by a child's parent or guardian and occurring within a private home.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) No youth camp shall employ, contract, or utilize as a volunteer, in any position, any person who has been convicted of or who has entered a guilty plea to a criminal offense against a minor or a sex crime, who is a violent offender, or who has been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.

(2) Prior to employing, contracting with, or allowing to engage in volunteer work, each youth camp shall obtain from the Justice and Public Safety Cabinet a state criminal background check of the applicant, contractor, or volunteer prior to the individual's presence at the camp or involvement in any program of the camp.

(3) Each application form provided by a youth camp to an applicant, contractor, or volunteer shall in a prominent place and legible font conspicuously state the following: "STATE LAW REQUIRES A STATE CRIMINAL BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT OR INVOLVEMENT IN THIS PROGRAM."

(4) Any request for records under subsection (2) of this section shall be on a form approved by the Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by the subject of the records request in an amount no greater than the actual cost of processing the request.

(5) This section shall apply to all applicants, contractors, and volunteers in a position which involves supervisory or disciplinary power over a minor.

(6) This section shall not be construed to prohibit an exempted organization from requiring its employees, contractors, or volunteers to submit to a background check.

(7) This section shall not be construed to require a youth camp to employ, contract with, or allow volunteer work by an individual solely on the basis of an acceptable criminal background check.

(8) This section shall not limit a youth camp's ability to establish a more stringent background check process for its employees, contractors, or volunteers regarding other criminal offenses which, in the discretion of the youth camp, would disqualify the individual from involvement with the youth camp.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Failure to comply with Section 3 of this Act will result in the immediate suspension of the entity's permit until compliance is reached.

(2) If any employee, contractor, or volunteer is discovered to have been a violent offender, convicted of a sex crime or a criminal offense against a minor, or found by the Cabinet for Health and Family Services or a court to have abused or neglected a child, he or she shall be immediately terminated from the participation with the program and removed from the property.

(3) Any person who owns or operates a youth camp and knowingly allows an individual to serve or continue to serve as an employee, contractor, or volunteer despite a conviction or offense specified in this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) A parent or legal guardian employing a child care provider for his or her minor child may request a background check of the child abuse and neglect records maintained by the cabinet by submitting the same form and paying the same fee that would be submitted by an entity required by law to request a background check on an employee, contractor, or volunteer for the purpose of determining whether there has been a substantiated finding of child abuse or neglect for the child care provider. The form shall contain the signature of the individual child care provider consenting to the background check.

(2) The cabinet shall make the form for requesting a background check of the child abuse and neglect records maintained by the cabinet available on its Web site along with information on how to locate a child care provider certified or licensed by the cabinet and how to request a criminal background check for a child care provider.

(3) The cabinet shall promulgate administrative regulations to implement subsection (1) of this section.

➔Section 6. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;

(b) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor;

(c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law; and

(d) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) Except as provided in KRS 160.346:

(a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing;

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days;

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the

activities used to increase the percentage of minority teachers in the district;

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection; and

(g) 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except:

a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or

b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.

3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.

4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.

(4) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, ***except at a Kentucky Educational Collaborative for State Agency Children program,*** at his discretion, persons convicted of sex crimes classified as a misdemeanor ***or persons with a substantiated finding of child abuse and neglect in records maintained by the Cabinet for Health and Family Services***.

(5) (a) A superintendent shall require a national and state criminal background check ***and a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another

certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check ***and a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** for the previous employment.

(b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation ***and a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services***.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check ***and the results of a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police***,***~~[and]~~ the Federal Bureau of Investigation***, and the Cabinet for Health and Family Services,*** shall be an amount no greater than the actual cost of processing the request and conducting the search.

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(6) (a) A superintendent shall require a state criminal background check ***and a name-***

based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services on all classified initial hires.

(b) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Department of Kentucky State Police ***and a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services***. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.

(c) Any request for ***any criminal background*** records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under the provisions of paragraph (b) of this subsection, ***and the results of a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police ***and the Cabinet for Health and Family Services*** shall be an amount no greater than the actual cost of processing the request and conducting the search.

(7) The superintendent may require a contractor, volunteer, or visitor to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation ***and a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services***. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the

national criminal history background check, if requested, ***and the results of a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police ***and the Cabinet for Health and Family Services*** shall be an amount no greater than the actual cost of processing the request and conducting the search.

(8) (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check ***and a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services***. Application for the criminal record ***and for a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(9) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK ***AND A NAME-BASED BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES*** AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK ***AND A NAME-BASED BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES*** AS A CONDITION OF EMPLOYMENT."

(c) Each application form for a district position shall require the applicant to:

1. Identify the states in which he or she has maintained residency, including the dates of residency; and

2. Provide picture identification.

(10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

(11) A school-based decision-making council parent member, as defined under KRS 160.345, shall submit to a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation ***and a name-based background check of child abuse and***

neglect records maintained by the Cabinet for Health and Family Services. The results of the state criminal history background check and the results of the national criminal history background check, if requested, ***and the results of a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** shall be sent to the district superintendent. Any fee charged by the Department of Kentucky State Police ***and the Cabinet for Health and Family Services*** shall be an amount no greater than the actual cost of processing the request and conducting the search. A parent member may serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.

(12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.

(13) (a) Every two (2) years of employment of each certified and classified employee of the school district, the superintendent shall require a name-based

background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services. Any results from the name-based background check shall be sent to the superintendent.

(b) If a certified or classified employee transfers from a district and seeks employment in another district, a name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be conducted upon the completion of four (4) years of employment from the last name-based background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services. Any results from the name-based background check shall be sent to the hiring superintendent.

➔Section 7. KRS 17.545 is amended to read as follows:

(1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line of the school to the nearest property line of the registrant's place of residence.

(2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, ***publicly owned playground,*** or licensed day care facility, except with the advance written permission of the school principal, the school board, ***the playground's owner or managing authority,*** or the day care director that has been given after full disclosure of the person's status as a registrant or sex offender from another state and all registrant information as required in KRS 17.500.

(3) For purposes of this section:

(a) The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and

(b) If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.

(4) Any person who violates subsection (1) of this section shall be guilty of:

(a) A Class A misdemeanor for a first offense; and

(b) A Class D felony for the second and each subsequent offense.

(5) Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility on July 12, 2006, shall move and comply with this section within ninety (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set forth under subsection (4) of this section.

(6) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

➔Section 8. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

(1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;

(2) "Cabinet" means the Justice and Public Safety Cabinet;

(3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the

offense:

1. Kidnapping, as set forth in KRS 509.040, except by a parent;
2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
3. Sex crime;
4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100;
6. ***Promoting human trafficking involving commercial sexual activity, as set forth in KRS 529.110;***
7. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

8.~~[7.]~~ Use of a minor in a sexual performance, as set forth in KRS 531.310;

9.~~[8.]~~ Sexual abuse, as set forth in KRS 510.120 and 510.130;

10.~~[9.]~~ Unlawful transaction with a minor in the first degree, as set forth in KRS 530.064(1)(a);

11.~~[10.]~~ Any offense involving a minor or depictions of a minor, as set forth in KRS Chapter 531;

12.~~[11.]~~ Any attempt to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph; and

13.~~[12.]~~ Solicitation to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission

of the offense;

(4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;

(5) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or

2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under KRS 17.510; or

(c) Any sexually violent predator; or

(d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;

(6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph, aliases used, residence, electronic mail address and any instant messaging, chat, or other Internet communication name identities, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;

(7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;

(8) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510, or KRS 530.020,

530.064(1)(a), 531.310, 531.320, or 531.335;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;

(9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;

(10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;

(11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;

(12) "Victim" has the same meaning as in KRS 421.500;

(13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and

(14) "Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

➔Section 9. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public

schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.

(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents

when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

(a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;

(b) Curriculum content and methods of instruction for each content area, including differentiated instruction;

(c) School-based decision making;

(d) Assessment literacy;

(e) Integration of performance-based student assessment into daily classroom instruction;

(f) Nongraded primary programs;

(g) Research-based instructional practices;

(h) Instructional uses of technology;

(i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;

(k) Educational leadership; and

(l) Strategies to incorporate character education throughout the curriculum.

(4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and

teaching practices related to the content and subject matter that are required for their specific classroom assignments.

(6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services shall post on its Web page suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The Web page shall include information related to suicide prevention training opportunities offered by the cabinet or an agency recognized by the cabinet as a training provider.

(b) By September 1, 2010, and September 1 of each year thereafter, every public middle and high school administrator shall disseminate suicide prevention awareness information to all middle and high school students. The information may be obtained from the Cabinet for Health and Family Services or from a commercially developed suicide prevention training program.

(7) (a) The Kentucky Department of Education shall develop and maintain a list of approved comprehensive evidence-informed trainings on child abuse and neglect prevention, recognition, and reporting that encompass child physical, sexual, and emotional abuse and neglect.

(b) The trainings shall be Web-based or in-person and cover, at a minimum, the following topics:

1. Recognizing child physical, sexual, and emotional abuse and neglect;
2. Reporting suspected child abuse and neglect in Kentucky as required by KRS 620.030 and the appropriate documentation;
3. Responding to the child; and
4. Understanding the response of child protective services.

(c) The trainings shall include a questionnaire or other basic assessment tool upon completion to document basic knowledge of training components.

(d) Each local school board shall adopt one (1) or more trainings from the list

approved by the Department of Education to be implemented by schools.

(e) All current school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district shall complete the implemented training or trainings by January 31, 2017, and then every two (2) years after.

(f) All school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district hired after January 31, 2017, shall complete the implemented training or trainings within ninety (90) days of being hired and then every two (2) years after.

(g) Every public school shall prominently display the statewide child abuse hotline number administered by the Cabinet for Health and Family Services***, and the National Human Trafficking Reporting Hotline number administered by the United States Department for Health and Human Services***.

(8) The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or

program.

(9) The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;

(b) Plan specific instructional strategies to teach at-risk students;

(c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;

(d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and

(e) Significantly reduce the dropout rate of all students.

(10) The department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

(11) The department shall annually provide to the oversight council established in KRS 15A.063, the information received from local schools pursuant to KRS 158.449.

➔Section 10. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the

common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be from classification A1 or D1 schools. Following initial election of these

nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even-numbered year.

(c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws that prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(d) Every local board of education shall require an annual medical examination performed and signed by a physician, physician assistant, advanced practice registered nurse, or chiropractor, if performed within the professional's scope of practice, for each student seeking eligibility to participate in any school athletic activity or sport. The Kentucky Board of Education or any organization or agency designated by the state board to manage interscholastic athletics shall not promulgate administrative regulations or adopt any policies or bylaws that are contrary to the provisions of this paragraph.

(e) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only. An exception to the provisions of this paragraph shall be made, and the student shall be eligible for high school athletics in Kentucky if

the student:

1. Qualified for exceptional children services and had an individual education program developed by an admissions and release committee (ARC) while the student was enrolled in the primary school program;
2. Was retained in the primary school program because of an ARC committee recommendation; and
3. Has not completed four (4) consecutive years or eight (8) consecutive semesters of eligibility following initial promotion from grade eight (8) to grade nine (9).

(f) 1. The state board or any agency designated by the state board to manage interscholastic athletics shall promulgate administrative regulations that permit a school district to employ or assign nonteaching or noncertified personnel or personnel without postsecondary education credit hours to serve in a coaching position. The administrative regulations shall give preference to the hiring or assignment of certified personnel in coaching positions.

2. A person employed in a coaching position shall be a high school graduate and at least twenty-one (21) years of age and shall submit to a criminal background check in accordance with KRS 160.380.
3. The administrative regulations shall specify post-hire requirements for persons employed in coaching positions.
4. The regulations shall permit a predetermined number of hours of professional development training approved by the state board or its designated agency to be used in lieu of postsecondary education credit hour requirements.
5. A local school board may specify post-hire requirements for personnel employed in coaching positions in addition to those specified in

subparagraph 3. of this paragraph.

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease

automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds,

from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

(6) The state board shall, on the recommendation and with the advice of the chief state school officer, address matters pertaining to the health and well-being of Kentucky schoolchildren, including establishing a policy of age-appropriate education programs regarding the recognition of child physical, sexual, and emotional abuse and neglect and human trafficking, and how to report suspected abuse.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) If, as a result of dependency, neglect, or abuse, custody of a child is granted to the

cabinet through an emergency, temporary, or permanent court order, the cabinet shall notify the principal, assistant principal, and guidance counselor of the school in which the child is enrolled of the names of the persons authorized to contact the child at school, or remove the child from the school grounds, in accordance with school visitation or communication policy.

(2) In the case of a child who is not yet school age but is attending a daycare or Head Start program, the cabinet shall notify the owner and director of the facility.

(3) The notification required by this section shall be provided to the school:

(a) Orally within one (1) business day of the day that a court order is entered and again on any day that a change is made with regard to persons authorized to contact or remove the child from school. If the school is closed, then notification shall be provided on the next day the school is open; and

(b) By written document within forty-eight (48) hours following a change of custody or change in contact or removal authority.

(4) The cabinet shall not be required to provide the information detailed in this section once the court order under which the cabinet acts is rescinded or otherwise expires.

➔Section 12. KRS 413.249 is amended to read as follows:

(1) As used in this section:

(a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where the offense involves commercial sexual activity, 529.110 where the offense involves commercial sexual activity, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action

for redress of childhood sexual assault;

(b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;

(c) "Child" means a person less than eighteen (18) years old; and

(d) "Injury or illness" means either a physical or psychological injury or illness.

(2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:

(a) Within ***ten (10)***~~[five (5)]~~ years of the commission of the act or the last of a series of acts by the same perpetrator;

(b) Within ***ten (10)***~~[five (5)]~~ years of the date the victim knew, or should have known, of the act; or

(c) Within ***ten (10)***~~[five (5)]~~ years after the victim attains the age of eighteen (18) years.

(3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than ***ten (10)***~~[five (5)]~~ years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:

(a) The court rules upon the motion to seal;

(b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or

(c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

➔Section 13. KRS 510.020 is amended to read as follows:

(1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.

(2) Lack of consent results from:

(a) Forcible compulsion;

(b) Incapacity to consent; or

(c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(3) A person is deemed incapable of consent when he or she is:

(a) Less than sixteen (16) years old;

(b) ***Sixteen (16) or seventeen (17) years old and the actor is at least ten (10) years older than the victim at the time of the sexual act;***

(c) An individual with an intellectual disability or an individual that suffers from a mental illness;

(d)[~~(c)~~] Mentally incapacitated;

(e)[~~(d)~~] Physically helpless; or

(f)[~~(e)~~] Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local

agency.

(4) The provisions of subsection (3)(e) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties.

➔Section 14. KRS 510.030 is amended to read as follows:

In any prosecution under this chapter in which the victim's lack of consent is based solely on his incapacity to consent because he was less than sixteen (16) years old, ***or sixteen (16) or seventeen (17) years old and the offender was at least ten (10) years older at the time of the offense,*** an individual with an intellectual disability, mentally incapacitated, or physically helpless, the defendant may prove in exculpation that at the time he engaged in the conduct constituting the offense he did not know of the facts or conditions responsible for such incapacity to consent.

➔Section 15. KRS 510.060 is amended to read as follows:

(1) A person is guilty of rape in the third degree when:

(a) He or she engages in sexual intercourse with another person who is incapable of consent because he or she is an individual with an intellectual disability;

(b) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old;

(c) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;

(d) ***Being at least ten (10) years older than a victim who is sixteen (16) or seventeen (17) years old at the time of sexual intercourse, he or she engages in sexual intercourse with the victim;***

(e) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of

that position; or

(f)[~~(e)~~] Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual intercourse.

(2) Rape in the third degree is a Class D felony.

➔Section 16. KRS 510.090 is amended to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He or she engages in deviate sexual intercourse with another person who is incapable of consent because he or she is an individual with an intellectual disability;

(b) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than sixteen (16) years old; or

(c) ***Being at least ten (10) years older than a victim who is sixteen (16) or seventeen (17) years old at the time of deviate sexual intercourse, he or she engages in deviate sexual intercourse with the victim;***

(d) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;

(e)[~~(d)~~] Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than eighteen (18) years old with whom he or she comes into contact as a result of that position; or

1 ***(f)***[~~(e)~~] Being a jailer, or an employee, contractor, vendor, or volunteer of the
2 Department of Corrections, Department of Juvenile Justice, or a detention
3 facility as defined in KRS 520.010, or of an entity under contract with either
4 department or a detention facility for the custody, supervision, evaluation, or
5 treatment of offenders, he or she subjects a person who he or she knows is
6 incarcerated, supervised, evaluated, or treated by the Department of
7 Corrections, Department of Juvenile Justice, detention facility, or contracting
8 entity, to deviate sexual intercourse.
9 (2) Sodomy in the third degree is a Class D felony.
10 ➔Section 17. KRS 15.232 is amended to read as follows:
11 The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys
12 and county attorneys in the investigation and prosecution of offenses under KRS 433.890
13 to 433.896, 433.900 to 433.906, ***506.120(3)(b),***[~~and~~] 512.090***, 529.100, and 529.110***.
14 ➔Section 18. KRS 176.415 is amended to read as follows:
15 ***(1)*** The Department of Highways shall display the following flags at each rest area
16 along the Commonwealth's interstate and turnpike system:
17 ***(a)***[~~(1)~~] The flag of the United States of America, to honor our country and the
18 democratic ideals of our forefathers;
19 ***(b)***[~~(2)~~] The flag of the Commonwealth of Kentucky, as specified by KRS 2.030,
20 to honor the Commonwealth and its citizens; and
21 ***(c)***[~~(3)~~] The flag of the National League of Families of American Prisoners of
22 War and Missing in Southeast Asia, the black and white banner commonly
23 known as the POW/MIA flag, which symbolizes America's missing service
24 members and our unwavering determination to account for them.
25 ***(2) The Department of Highways shall post in every restroom located on the premises***
26 ***of each rest area in the Commonwealth a printed sign in English and Spanish at***
27 ***least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1)***

inch high, displaying the current telephone hotline number of the National Human Trafficking Resource Center or any federally funded successor entity. The sign shall be:

(a) Created using gender-neutral language supplied to the Department of Highways by the Cabinet for Health and Family Services; and

(b) Posted in a prominent place easily seen by patrons.

➔Section 19. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:

(a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:

1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;

4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

7. Abandons or exploits the child;

8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months; or

(b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;

(2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);

(3) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:

(a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;

(b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;

(c) The parent has sexually abused the child and has refused available treatment;

(d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or

(e) The parent has caused the child serious physical injury;

(4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(5) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

(6) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(7) "Cabinet" means the Cabinet for Health and Family Services;

(8) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(9) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;

(10) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(11) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(12) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(13) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;

(14) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(15) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(16) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(17) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in

alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(18) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(19) "Department" means the Department for Community Based Services;

(20) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(21) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;

(22) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

(23) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;

(24) "Eligible youth" means a person who:

(a) Is or has been committed to the cabinet as dependent, neglected, or abused;

(b) Is eighteen (18) years of age to nineteen (19) years of age; and

(c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;

(25) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and

adequate staff and services consistent with the needs of each child;

(26) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;

(27) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;

(28) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(29) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(30) "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:

(a) Electronic monitoring;

(b) Drug and alcohol screening, testing, or monitoring;

(c) Day or evening reporting centers;

(d) Reporting requirements;

(e) Community service; and

(f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;

(31) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;

(32) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a

one (1) year period;

(33) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(34) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(35) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(36) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(37) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for appropriate family engagement;

(38) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(39) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(40) "Needs of the child" means necessary food, clothing, health, shelter, and education;

(41) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who

has not been otherwise charged with a status or public offense;

(42) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(43) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

(44) "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;

(45) "Parent" means the biological or adoptive mother or father of a child;

(46) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(47) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

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

(49) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

(50) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a

public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(51) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in

psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or

(g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(52) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);

(53) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(54) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(55) "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;

(56) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(57) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(58) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(59) "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 member or organ;

(60) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(61) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(62) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its

supervision, services to families and children;

(63) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(64) (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:

1. Beyond the control of school or beyond the control of parents;
2. Habitual Runaway;
3. Habitual truant;
4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
5. Alcohol offenses as provided in KRS 244.085.

(b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;

(65) "Take into custody" ***or "take into protective custody"*** means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody ***or protective custody*** for a period of time not to exceed two (2) hours;

(66) "Transitional living support" means all benefits to which an eligible youth is entitled upon being granted extended or reinstated commitment to the cabinet by the court;

(67) "Transition plan" means a plan that is personalized at the direction of the youth that:

(a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and

(b) Is as detailed as the youth may elect;

(68) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:

(a) Who was brought before the court and made subject to the order;

(b) Whose future conduct was regulated by the order;

(c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and

(d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;

(69) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(70) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

(71) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔Section 20. KRS 610.190 is amended to read as follows:

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest until the court has made the decision to try the child in Circuit or District Court as an adult. The law relating to bail shall not be applicable to children detained in accordance with this chapter unless the child is subject to being tried in Circuit or District Court as an adult.

(2) A peace officer may take a child into protective custody if***:***~~[the officer suspects the child to be a runaway.]~~

(a) The child has been reported as a missing child pursuant to KRS 17.450;

(b) There is reasonable cause to believe the child may be the victim of human trafficking pursuant to KRS 620.029 or 620.030, and KRS 529.120 shall also apply;

(c) There is reasonable cause to believe that the child is dependent, neglected, or abused pursuant to KRS 620.030; or

(d) The officer has reasonable grounds to believe the child is a habitual runaway as authorized pursuant to subsection (2) of Section 23 of this Act.

(3) Pursuant to KRS 620.040(5)(c), a peace officer may hold a child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury, is being sexually abused, or is a victim of human trafficking and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(4) A child taken into protective custody under ***paragraph (a), (b), or (c) of subsection (2) of this section or subsection (3) of this section***~~[this subsection]~~ shall not be considered to have been arrested and may be ***held in an emergency shelter, crisis stabilization unit, hospital or clinic, or a child-caring or child-placing facility.***

(5) A child taken into protective custody under subsection (2)(d) of this section may be held at the locations specified in ***subsection (4) of this section or in those locations provided in*** KRS 610.220(1), ***while***~~[after which]~~ the officer ***conducts***~~[shall proceed with]~~ an initial investigation as provided for in KRS

610.200.

(6)[~~(3)~~] When a child is taken into custody by a person other than a peace officer, such person shall as soon as possible place the child in the custody of a peace officer.

➔Section 21. KRS 610.200 is amended to read as follows:

(1) When a peace officer has taken or received a child into custody on a charge of committing an offense, the officer shall immediately inform the child of his constitutional rights and afford him the protections required thereunder, notify the parent, or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate, and if the parent is not available, then a relative, guardian, or person exercising custodial control or supervision of the child, that the child has been taken into custody, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for taking the child into custody.

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

1. The child's parent, guardian, or person exercising custodial control or supervision of the child, if determined;
2. The cabinet or Department of Juvenile Justice, if appropriate; and
3. The court-designated worker.

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

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

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

(e) If, at the conclusion of the peace officer's investigation, the parent, guardian, or person exercising custodial control or supervision of the child cannot be identified or located, or that person refuses to collect the child, the peace officer shall file a complaint ***to initiate detention or placement procedures pending a detention or custody hearing***[~~pursuant to KRS 610.012~~].

(3) Unless the child is subject to trial as an adult or unless the nature of the offense or other circumstances are such as to indicate the necessity of retaining the child in custody, the officer shall release the child to the custody of his parent or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate; or if the parent is not available, then a relative, guardian, or person exercising custodial control or supervision or other responsible person or agency approved by the court upon the written promise, signed by such person or agency, to bring the child to the court at a stated time or at such time as the court may order. The written promise, accompanied by a written report by the officer, shall be submitted forthwith to the court or court-designated worker and shall detail the reasons for having taken custody of the child, the release of the child, the person to whom the child was released, and the reasons for the release.

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

(b) If the person notified to collect a ***child taken into protective***

custody~~[suspected runaway pursuant to subsection (2)(a) of this section]~~ fails or refuses to collect the child, the peace officer shall notify the county attorney, who may file a charge of endangering the welfare of a minor, and the cabinet.

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

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

(a) Release the child to his parents;

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

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

(d) Except as provided in subsection (7) of this section, authorize the peace officer to retain custody of the child for an additional period not to exceed twelve (12) hours during which the peace officer may transport the child to a secure juvenile detention facility or a nonsecure facility. If the child is retained in custody, the court-designated worker shall give notice to the child's parents or person exercising custodial control or supervision of the fact that the child is being retained in custody.

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

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

➔Section 22. KRS 610.220 is amended to read as follows:

(1) Except as otherwise provided by statute, if an officer takes or receives a child into custody on an allegation of committing a public offense or into protective custody ***pursuant to subsection (2) of Section 23 of this Act and charged as a habitual***[~~ on being a suspected~~] runaway, the child may be held at a police station, secure juvenile detention facility, youth alternative center, a nonsecure facility, or, as necessary, in a hospital or clinic for the following purposes:

(a) Identification and booking;

(b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, other responsible person, or the cabinet;

(c) Photographing;

(d) Fingerprinting;

(e) Physical examinations, including examinations for evidence;

(f) Evidence collection, including scientific tests;

(g) Records checks;

(h) Determining whether the child is subject to trial as an adult; and

(i) Other inquiries of a preliminary nature.

(2) ***A nonoffender, as defined in Section 19 of this Act, shall not be placed in secure or nonsecure detention pursuant to KRS 610.266 and 620.095.***

(3) A child[~~ may be~~] held in custody pursuant to ***subsection (1) of this section may be held***[~~this section~~] for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(6)(d) and the child may be retained in custody for up to an additional ten (10) hours at a facility of the type listed in subsection (1) of this section except for an intermittent holding facility for the period of retention.

(4)[~~(3)~~] Any child held in custody pursuant to this section shall be sight and sound

separated from any adult prisoners held in secure custody at the same location, and shall not be handcuffed to or otherwise securely attached to any stationary object.

➔Section 23. KRS 630.030 is amended to read as follows:

~~[Under the provisions of this chapter a child may be taken into custody by any peace officer:]~~

(1) ***A child may be taken into custody by any peace officer*** pursuant to an order of the court for failure to appear before the court for a previous status offense**.**~~[; or]~~

(2) ***A child may be taken into protective custody*** if there are reasonable grounds to believe that the child ***is a***~~[has been an]~~ habitual runaway from his parent or person exercising custodial control or supervision of the child.

(3) The provisions of Section 21 of this Act shall apply when any child is taken into protective custody under this section.

➔Section 24. KRS 15A.068 is amended to read as follows:

(1) If, during the course of screening, assessing, or providing services to a child committed to or in the custody of the department ***or a person or organization operating a facility pursuant to KRS 15A.220***, there is reasonable cause to believe that the child is a victim of human trafficking as defined in KRS 529.010, the department ***or a person or organization operating a facility pursuant to KRS 15A.220*** shall:

(a) File a report with the Cabinet for Health and Family Services pursuant to KRS 620.030;

(b) Notify the child's attorney that the child may be a victim of human trafficking; and

(c) If the child does not pose a threat to public safety, petition the court to transfer custody from the department to the Cabinet for Health and Family Services.

(2) After consultation with agencies serving victims of human trafficking, the department shall promulgate administrative regulations for the treatment of child

victims of human trafficking who are committed to or in the custody of the department and pose a threat to public safety but do not qualify to be in the custody of the Cabinet for Health and Family Services under subsection (1)(c) of this section. The administrative regulations shall include provisions for appropriate screening, assessment, placement, treatment, and services for these children, the training of staff, and collaboration with service providers.

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) In a criminal or civil proceeding, any property or material that portrays child pornography or a sexual performance by a minor as defined in this chapter shall remain secured or locked in the care, custody, and control of a law enforcement agency, the prosecutor, or the court.

(2) Notwithstanding any other law or rule of court, a court shall deny, in any proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that portrays a sexual performance by a minor or constitutes child pornography so long as law enforcement, the prosecutor, or the court makes the property or material reasonably available to the defendant.

(3) For the purposes of this section, property or material shall be deemed reasonably available to the defendant if the prosecutor provides ample opportunity at a designated facility for the inspection, viewing, and examination of the property or material that portrays a sexual performance by a child or constitutes child pornography by the defendant, his or her attorney, or any individual whom the defendant uses as an expert during either the discovery process or a court proceeding.

➔Section 26. 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;

(d) Billy, nightstick, or club;

(e) Blackjack or slapjack;

(f) Nunchaku karate sticks;

(g) Shuriken or death star; or

(h) 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***. For a child (12) years of age or less at the time of the injury, a serious physical injury includes the following:***

(a) Bruising near the eyes, or on the head, neck, or lower back overlying the kidneys;

(b) Any bruising severe enough to cause underlying muscle damage as determined by elevated creatine kinase levels in the blood;

(c) Any bruising or soft tissue injury to the genitals that affects the ability to urinate or defecate;

(d) Any testicular injury sufficient to put fertility at risk;

(e) Any burn near the eyes or involving the mouth, airway, or esophagus;

(f) Any burn deep enough to leave scarring or dysfunction of the body;

(g) Any burn requiring hospitalization, debridement in the operating room, IV fluids, intubation, or admission to a hospital's intensive care unit;

(h) Rib fracture;

(i) Scapula or sternum fractures;

(j) Any broken bone that requires surgery;

(k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;

(l) A concussion that results in the child becoming limp, unresponsive, or results in seizure activity;

(m) Abdominal injuries that indicate internal organ damage regardless of whether surgery is required;

(n) Any injury requiring surgery; and

(o) Any injury that requires a blood transfusion;

(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

1 (d) Any weapon that is designed to release radiation or radioactivity at a level
2 dangerous to human life.
3 ➔Section 27. The following KRS section is repealed:
4 610.012 Exclusive jurisdiction of District Court or family division of Circuit Court
5 concerning temporary detention of suspected runaway.
6 ➔Section 28. This Act may be cited as the Child Protection Act of 2017.