

1 AN ACT relating to the sale of tobacco, alternative nicotine, and vapor products.

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

3 ➔Section 1. KRS 438.311 is amended to read as follows:

4 (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has
5 not attained the age of twenty-one (21) years to purchase or accept receipt of or to
6 attempt to purchase or accept receipt of a tobacco product, alternative nicotine
7 product, or vapor product, or to present or offer to any person any purported proof
8 of age which is false, fraudulent, or not actually his or her own, for the purpose of
9 purchasing or receiving any tobacco product, alternative nicotine product, or vapor
10 product. It shall not be unlawful for such a person to accept receipt of a tobacco
11 product, alternative nicotine product, or vapor product from an employer when
12 required in the performance of the person's duties.

13 (2) All peace officers with general law enforcement authority and employees of the
14 Department of Alcoholic Beverage Control may confiscate the tobacco product,
15 alternative nicotine product, or vapor product of a person under the age of twenty-
16 one (21) who has violated this section. ~~Notwithstanding any provision of law to the
17 contrary, no other penalty shall apply to a person under the age of twenty one (21)
18 for a violation of this section.~~

19 **(3) A violation of subsection (1) of this section shall be deemed a status offense if**
20 **committed by a person under the age of eighteen (18) and shall be under the**
21 **jurisdiction of the juvenile session of the District Court or the family division of**
22 **the Circuit Court, as appropriate.**

23 **(4) Except as provided in subsection (3) of this section, any person who violates**
24 **subsection (1) of this section shall, for the first offense, be guilty of a violation,**
25 **and for each subsequent offense shall be guilty of a Class A misdemeanor.**

26 ➔Section 2. KRS 438.345 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Alternative nicotine product" has the same meaning as in KRS 438.305;
- 2 (b) "Tobacco product" has the same meaning as in KRS 438.305; and
- 3 (c) "Vapor product" has the same meaning as in KRS 438.305.
- 4 (2) The use of any tobacco product, alternative nicotine product, or vapor product:
- 5 (a) Shall be prohibited for all persons and at all times on or in all property,
- 6 including any vehicle, that is owned, operated, leased, or contracted for use by
- 7 a local board of education;
- 8 (b) Shall be prohibited for all students while attending or participating in any
- 9 school-related student trip or student activity; and
- 10 (c) Shall be prohibited for school district employees, volunteers, and all other
- 11 individuals affiliated with a school while the user is attending or participating
- 12 in any school-related student trip or student activity and is in the presence of a
- 13 student or students.
- 14 (3) On or before July 1, 2020, each local board of education shall implement this
- 15 section by adopting written policies that prohibit the use of tobacco products,
- 16 alternative nicotine products, and vapor products pursuant to this section. The
- 17 policies shall provide for:
- 18 (a) Adequate notice regarding the policy to be provided to students, parents and
- 19 guardians, school employees, and the general public;
- 20 (b) A requirement to post signage on or in all property, including any vehicle, that
- 21 is owned, operated, leased, or contracted for use by a local board of education,
- 22 clearly stating that use of tobacco products, alternative nicotine products, and
- 23 vapor products is prohibited at all times and by all persons on or in the
- 24 property; and
- 25 (c) A requirement that school employees enforce the policies.
- 26 (4) A person in violation of subsection (2) of this section, or policies adopted by a local
- 27 board of education pursuant to subsection (3) of this section, shall be subject to

1 penalties as set forth by the local board of education. *A local board of education*
2 *shall include a policy in the district's code of acceptable behavior and discipline*
3 *under KRS 158.148 that, at a minimum, if a student under the age of twenty-one*
4 *(21) violates subsection (2) of this section, the district shall confiscate the*
5 *alternative nicotine products, tobacco products, or vapor products and that a*
6 *second offense shall result in a suspension of that student.*

- 7 (5) Nothing in this section shall be interpreted or construed to:
- 8 (a) Permit use of a tobacco product, alternative nicotine product, or vapor
9 product, where it is otherwise restricted by this section, other state or federal
10 law, administrative regulation, or executive order;
- 11 (b) Prevent a local board of education or any other local governmental entity from
12 adopting local ordinances, regulations, or policies relating to use of a tobacco
13 product, alternative nicotine product, or a vapor product, in public places of
14 employment, and nonenclosed areas, that are more restrictive than what is
15 provided for in this section; or
- 16 (c) Repeal any existing local ordinances, regulations, or policies that provide
17 restrictions on the use of a tobacco product, alternative nicotine product, or
18 vapor product, in addition to those provided for in this section.
- 19 (6) Each local board of education may choose, up to three (3) years after June 27, 2019,
20 to opt out of subsections (2) to (4) of this section.

21 ➔Section 3. KRS 438.350 is amended to read as follows:

- 22 (1) No person under the age of twenty-one (21) shall possess or use tobacco products,
23 alternative nicotine products, or vapor products.
- 24 (2) Any tobacco product, alternative nicotine product, or vapor product found in the
25 possession of a person under the age of twenty-one (21) and in plain view of the
26 law enforcement officer shall be confiscated by the law enforcement officer making
27 the charge.

1 **(3) A violation of subsection (1) of this section shall be deemed a status offense if**
 2 **committed by a person under the age of eighteen (18) and shall be under the**
 3 **jurisdiction of the juvenile session of the District Court or the family division of**
 4 **the Circuit Court, as appropriate.**

5 **(4) Except as provided in subsection (3) of this section, any person who violates**
 6 **subsection (1) of this section shall, for the first offense, be guilty of a violation,**
 7 **and for each subsequent offense shall be guilty of a Class A misdemeanor.**

8 ~~(5)(3)~~ This section shall not apply to persons exempted as provided by KRS 438.311
 9 and 438.330.

10 ~~(6)(4)~~ The terms "alternative nicotine product," "tobacco product," and "vapor
 11 product," shall have the same meanings as in KRS 438.305.

12 ➔Section 4. KRS 600.020 is amended to read as follows:

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

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

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

- 19 1. Inflicts or allows to be inflicted upon the child physical or emotional
 20 injury as defined in this section by other than accidental means;
- 21 2. Creates or allows to be created a risk of physical or emotional injury as
 22 defined in this section to the child by other than accidental means;
- 23 3. Engages in a pattern of conduct that renders the parent incapable of
 24 caring for the immediate and ongoing needs of the child, including but
 25 not limited to parental incapacity due to a substance use disorder as
 26 defined in KRS 222.005;
- 27 4. Continuously or repeatedly fails or refuses to provide essential parental

- 1 care and protection for the child, considering the age of the child;
- 2 5. Commits or allows to be committed an act of sexual abuse, sexual
3 exploitation, or prostitution upon the child;
- 4 6. Creates or allows to be created a risk that an act of sexual abuse, sexual
5 exploitation, or prostitution will be committed upon the child;
- 6 7. Abandons or exploits the child;
- 7 8. Does not provide the child with adequate care, supervision, food,
8 clothing, shelter, and education or medical care necessary for the child's
9 well-being when financially able to do so or offered financial or other
10 means to do so. A parent or other person exercising custodial control or
11 supervision of the child legitimately practicing the person's religious
12 beliefs shall not be considered a negligent parent solely because of
13 failure to provide specified medical treatment for a child for that reason
14 alone. This exception shall not preclude a court from ordering necessary
15 medical services for a child;
- 16 9. Fails to make sufficient progress toward identified goals as set forth in
17 the court-approved case plan to allow for the safe return of the child to
18 the parent that results in the child remaining committed to the cabinet
19 and remaining in foster care for fifteen (15) cumulative months out of
20 forty-eight (48) months; or
- 21 10. Commits or allows female genital mutilation as defined in KRS 508.125
22 to be committed; or
- 23 (b) A person twenty-one (21) years of age or older commits or allows to be
24 committed an act of sexual abuse, sexual exploitation, or prostitution upon a
25 child less than sixteen (16) years of age;
- 26 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
27 675(11);

- 1 (3) "Aggravated circumstances" means the existence of one (1) or more of the
2 following conditions:
- 3 (a) The parent has not attempted or has not had contact with the child for a period
4 of not less than ninety (90) days;
- 5 (b) The parent is incarcerated and will be unavailable to care for the child for a
6 period of at least one (1) year from the date of the child's entry into foster care
7 and there is no appropriate relative placement available during this period of
8 time;
- 9 (c) The parent has sexually abused the child and has refused available treatment;
- 10 (d) The parent has been found by the cabinet to have engaged in abuse of the
11 child that required removal from the parent's home two (2) or more times in
12 the past two (2) years; or
- 13 (e) The parent has caused the child serious physical injury;
- 14 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
15 the reasonable directives of his or her parents, legal guardian, or person exercising
16 custodial control or supervision other than a state agency, which behavior results in
17 danger to the child or others, and which behavior does not constitute behavior that
18 would warrant the filing of a petition under KRS Chapter 645;
- 19 (5) "Beyond the control of school" means any child who has been found by the court to
20 have repeatedly violated the lawful regulations for the government of the school as
21 provided in KRS 158.150, and as documented in writing by the school as a part of
22 the school's petition or as an attachment to the school's petition. The petition or
23 attachment shall describe the student's behavior and all intervention strategies
24 attempted by the school;
- 25 (6) "Boarding home" means a privately owned and operated home for the boarding and
26 lodging of individuals which is approved by the Department of Juvenile Justice or
27 the cabinet for the placement of children committed to the department or the

1 cabinet;

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

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

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

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

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

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

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

25 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
26 operated, or permitted to operate by the Department of Juvenile Justice or the
27 cabinet, which is located within a reasonable proximity of the child's family and

- 1 home community, which affords the child the opportunity, if a Kentucky resident,
2 to continue family and community contact;
- 3 (15) "Complaint" means a verified statement setting forth allegations in regard to the
4 child which contain sufficient facts for the formulation of a subsequent petition;
- 5 (16) "Court" means the juvenile session of District Court unless a statute specifies the
6 adult session of District Court or the Circuit Court;
- 7 (17) "Court-designated worker" means that organization or individual delegated by the
8 Administrative Office of the Courts for the purposes of placing children in
9 alternative placements prior to arraignment, conducting preliminary investigations,
10 and formulating, entering into, and supervising diversion agreements and
11 performing such other functions as authorized by law or court order;
- 12 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 13 (19) "Department" means the Department for Community Based Services;
- 14 (20) "Dependent child" means any child, other than an abused or neglected child, who is
15 under improper care, custody, control, or guardianship that is not due to an
16 intentional act of the parent, guardian, or person exercising custodial control or
17 supervision of the child;
- 18 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
19 conduct subject to the jurisdiction of the court who requires a restricted or closely
20 supervised environment for his or her own or the community's protection;
- 21 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
22 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
23 period of detention prior to adjudication;
- 24 (23) "Diversion agreement" means a mechanism designed to hold a child accountable
25 for his or her behavior and, if appropriate, securing services to serve the best
26 interest of the child and to provide redress for that behavior without court action
27 and without the creation of a formal court record;

- 1 (24) "Eligible youth" means a person who:
- 2 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 3 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 4 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
- 5 order to participate in state or federal educational programs or to establish
- 6 independent living arrangements;
- 7 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
- 8 homelike facility which provides temporary or emergency care of children and
- 9 adequate staff and services consistent with the needs of each child;
- 10 (26) "Emotional injury" means an injury to the mental or psychological capacity or
- 11 emotional stability of a child as evidenced by a substantial and observable
- 12 impairment in the child's ability to function within a normal range of performance
- 13 and behavior with due regard to his or her age, development, culture, and
- 14 environment as testified to by a qualified mental health professional;
- 15 (27) "Evidence-based practices" means policies, procedures, programs, and practices
- 16 proven by scientific research to reliably produce reductions in recidivism;
- 17 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
- 18 to a child, but who has an emotionally significant relationship with the child, or an
- 19 emotionally significant relationship with a biological parent, siblings, or half-
- 20 siblings of the child in the case of a child from birth to twelve (12) months of age,
- 21 prior to placement;
- 22 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 23 (30) "Foster family home" means a private home in which children are placed for foster
- 24 family care under supervision of the cabinet or a licensed child-placing agency;
- 25 (31) "Graduated sanction" means any of a continuum of accountability measures,
- 26 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
- 27 that may include but are not limited to:

- 1 (a) Electronic monitoring;
- 2 (b) Drug and alcohol screening, testing, or monitoring;
- 3 (c) Day or evening reporting centers;
- 4 (d) Reporting requirements;
- 5 (e) Community service; and
- 6 (f) Rehabilitative interventions such as family counseling, substance abuse
- 7 treatment, restorative justice programs, and behavioral or mental health
- 8 treatment;
- 9 (32) "Habitual runaway" means any child who has been found by the court to have been
- 10 absent from his or her place of lawful residence without the permission of his or her
- 11 custodian for at least three (3) days during a one (1) year period;
- 12 (33) "Habitual truant" means any child who has been found by the court to have been
- 13 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a
- 14 one (1) year period;
- 15 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
- 16 public facility, health care facility, or part thereof, which is approved by the cabinet
- 17 to treat children;
- 18 (35) "Independent living" means those activities necessary to assist a committed child to
- 19 establish independent living arrangements;
- 20 (36) "Informal adjustment" means an agreement reached among the parties, with
- 21 consultation, but not the consent, of the victim of the crime or other persons
- 22 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
- 23 after a petition has been filed, which is approved by the court, that the best interest
- 24 of the child would be served without formal adjudication and disposition;
- 25 (37) "Intentionally" means, with respect to a result or to conduct described by a statute
- 26 which defines an offense, that the actor's conscious objective is to cause that result
- 27 or to engage in that conduct;

- 1 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
2 the program developed on the child's behalf is no more harsh, hazardous, or
3 intrusive than necessary; or involves no restrictions on physical movements nor
4 requirements for residential care except as reasonably necessary for the protection
5 of the child from physical injury; or protection of the community, and is conducted
6 at the suitable available facility closest to the child's place of residence to allow for
7 appropriate family engagement;
- 8 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
9 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 10 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
11 serious or critical condition;
- 12 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 13 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and
14 who has not been otherwise charged with a status or public offense;
- 15 (43) "Nonsecure facility" means a facility which provides its residents access to the
16 surrounding community and which does not rely primarily on the use of physically
17 restricting construction and hardware to restrict freedom;
- 18 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a
19 child's own home, where a child may be temporarily placed pending further court
20 action. Children before the court in a county that is served by a state operated
21 secure detention facility, who are in the detention custody of the Department of
22 Juvenile Justice, and who are placed in a nonsecure alternative by the Department
23 of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 24 (45) "Out-of-home placement" means a placement other than in the home of a parent,
25 relative, or guardian, in a boarding home, clinical treatment facility, community-
26 based facility, detention facility, emergency shelter, fictive kin home, foster family
27 home, hospital, nonsecure facility, physically secure facility, residential treatment

- 1 facility, or youth alternative center;
- 2 (46) "Parent" means the biological or adoptive mother or father of a child;
- 3 (47) "Person exercising custodial control or supervision" means a person or agency that
4 has assumed the role and responsibility of a parent or guardian for the child, but that
5 does not necessarily have legal custody of the child;
- 6 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,
7 which initiates formal court involvement in the child's case;
- 8 (49) "Physical injury" means substantial physical pain or any impairment of physical
9 condition;
- 10 (50) "Physically secure facility" means a facility that relies primarily on the use of
11 construction and hardware such as locks, bars, and fences to restrict freedom;
- 12 (51) "Public offense action" means an action, excluding contempt, brought in the interest
13 of a child who is accused of committing an offense under KRS Chapter 527 or a
14 public offense which, if committed by an adult, would be a crime, whether the same
15 is a felony, misdemeanor, or violation, other than an action alleging that a child
16 sixteen (16) years of age or older has committed a motor vehicle offense;
- 17 (52) "Qualified mental health professional" means:
- 18 (a) A physician licensed under the laws of Kentucky to practice medicine or
19 osteopathy, or a medical officer of the government of the United States while
20 engaged in the performance of official duties;
- 21 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
22 osteopathy, or a medical officer of the government of the United States while
23 engaged in the practice of official duties, and who is certified or eligible to
24 apply for certification by the American Board of Psychiatry and Neurology,
25 Inc.;
- 26 (c) A psychologist with the health service provider designation, a psychological
27 practitioner, a certified psychologist, or a psychological associate licensed

- 1 under the provisions of KRS Chapter 319;
- 2 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
3 an accredited institution and two (2) years of clinical experience with
4 mentally ill persons, or a licensed registered nurse with a bachelor's degree in
5 nursing from an accredited institution who is certified as a psychiatric and
6 mental health nurse by the American Nurses Association and who has three
7 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
8 and who is currently employed by a hospital or forensic psychiatric facility
9 licensed by the Commonwealth or a psychiatric unit of a general hospital, a
10 private agency or company engaged in providing mental health services, or a
11 regional comprehensive care center;
- 12 (e) A licensed clinical social worker licensed under the provisions of KRS
13 335.100, or a certified social worker licensed under the provisions of KRS
14 335.080 with three (3) years of inpatient or outpatient clinical experience in
15 psychiatric social work and currently employed by a hospital or forensic
16 psychiatric facility licensed by the Commonwealth, a psychiatric unit of a
17 general hospital, a private agency or company engaged in providing mental
18 health services, or a regional comprehensive care center;
- 19 (f) A marriage and family therapist licensed under the provisions of KRS
20 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
21 experience in psychiatric mental health practice and currently employed by a
22 hospital or forensic psychiatric facility licensed by the Commonwealth, a
23 psychiatric unit of a general hospital, a private agency or company engaged in
24 providing mental health services, or a regional comprehensive care center;
- 25 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
26 335.599 with three (3) years of inpatient or outpatient clinical experience in
27 psychiatric mental health practice and currently employed by a hospital or

- 1 forensic facility licensed by the Commonwealth, a psychiatric unit of a
2 general hospital, a private agency or company engaged in providing mental
3 health services, or a regional comprehensive care center; or
- 4 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
5 (1) of the following requirements:
- 6 1. Provides documentation that he or she has completed a psychiatric
7 residency program for physician assistants;
 - 8 2. Has completed at least one thousand (1,000) hours of clinical experience
9 under a supervising physician, as defined by KRS 311.840, who is a
10 psychiatrist and is certified or eligible for certification by the American
11 Board of Psychiatry and Neurology, Inc.;
 - 12 3. Holds a master's degree from a physician assistant program accredited
13 by the Accreditation Review Commission on Education for the
14 Physician Assistant or its predecessor or successor agencies, is
15 practicing under a supervising physician as defined by KRS 311.840,
16 and:
 - 17 a. Has two (2) years of clinical experience in the assessment,
18 evaluation, and treatment of mental disorders; or
 - 19 b. Has been employed by a hospital or forensic psychiatric facility
20 licensed by the Commonwealth or a psychiatric unit of a general
21 hospital or a private agency or company engaged in the provision
22 of mental health services or a regional community program for
23 mental health and individuals with an intellectual disability for at
24 least two (2) years; or
 - 25 4. Holds a bachelor's degree, possesses a current physician assistant
26 certificate issued by the board prior to July 15, 2002, is practicing under
27 a supervising physician as defined by KRS 311.840, and:

- 1 a. Has three (3) years of clinical experience in the assessment,
2 evaluation, and treatment of mental disorders; or
- 3 b. Has been employed by a hospital or forensic psychiatric facility
4 licensed by the Commonwealth or a psychiatric unit of a general
5 hospital or a private agency or company engaged in the provision
6 of mental health services or a regional community program for
7 mental health and individuals with an intellectual disability for at
8 least three (3) years;
- 9 (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.
10 sec. 675(10);
- 11 (54) "Residential treatment facility" means a facility or group home with more than eight
12 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
13 treatment of children;
- 14 (55) "Retain in custody" means, after a child has been taken into custody, the continued
15 holding of the child by a peace officer for a period of time not to exceed twelve (12)
16 hours when authorized by the court or the court-designated worker for the purpose
17 of making preliminary inquiries;
- 18 (56) "Risk and needs assessment" means an actuarial tool scientifically proven to
19 identify specific factors and needs that are related to delinquent and noncriminal
20 misconduct;
- 21 (57) "School personnel" means those certified persons under the supervision of the local
22 public or private education agency;
- 23 (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 24 (59) "Secure juvenile detention facility" means any physically secure facility used for
25 the secure detention of children other than any facility in which adult prisoners are
26 confined;
- 27 (60) "Serious physical injury" means physical injury which creates a substantial risk of

1 death or which causes serious and prolonged disfigurement, prolonged impairment
2 of health, or prolonged loss or impairment of the function of any bodily member or
3 organ;

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

10 (62) "Sexual exploitation" includes but is not limited to a situation in which a parent,
11 guardian, person in a position of authority or special trust, as defined in KRS
12 532.045, or other person having custodial control or supervision of a child or
13 responsible for his or her welfare, allows, permits, or encourages the child to
14 engage in an act which constitutes prostitution under Kentucky law; or a parent,
15 guardian, person in a position of authority or special trust, as defined in KRS
16 532.045, or other person having custodial control or supervision of a child or
17 responsible for his or her welfare, allows, permits, or encourages the child to
18 engage in an act of obscene or pornographic photographing, filming, or depicting of
19 a child as provided for under Kentucky law;

20 (63) "Social service worker" means any employee of the cabinet or any private agency
21 designated as such by the secretary of the cabinet or a social worker employed by a
22 county or city who has been approved by the cabinet to provide, under its
23 supervision, services to families and children;

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

27 (65) (a) "Status offense action" is any action brought in the interest of a child who is

1 accused of committing acts, which if committed by an adult, would not be a
2 crime. Such behavior shall not be considered criminal or delinquent and such
3 children shall be termed status offenders. Status offenses shall include:

- 4 1. Beyond the control of school or beyond the control of parents;
- 5 2. Habitual runaway;
- 6 3. Habitual truant;~~and~~
- 7 4. Alcohol offenses as provided in KRS 244.085;

8 **5. Tobacco, alternative nicotine, or vapor product offenses in violation of**
9 **Sections 1 and 3 of this Act.**

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

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

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

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

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

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

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

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

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

27 (c) Who was given written and verbal warning of the consequences of the

1 violation of the order at the time the order was issued and whose attorney or
2 parent or legal guardian was also provided with a written notice of the
3 consequences of violation of the order, which notification is reflected in the
4 record of the court proceedings; and

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

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

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

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

15 ➔Section 5. KRS 610.010 is amended to read as follows:

16 (1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the
17 District Court of each county shall have exclusive jurisdiction in proceedings
18 concerning any child living or found within the county who has not reached his or
19 her eighteenth birthday or of any person who at the time of committing a public
20 offense was under the age of eighteen (18) years, who allegedly has committed a
21 public offense prior to his or her eighteenth birthday, except a motor vehicle offense
22 involving a child sixteen (16) years of age or older. A child sixteen (16) years of
23 age or older taken into custody upon the allegation that the child has committed a
24 motor vehicle offense shall be treated as an adult and shall have the same conditions
25 of release applied to him or her as an adult. A child taken into custody upon the
26 allegation that he or she has committed a motor vehicle offense who is not released
27 under conditions of release applicable to adults shall be held, pending his or her

1 appearance before the District Court, in a facility as defined in KRS 15A.067.
2 Children sixteen (16) years of age or older who are convicted of, or plead guilty to,
3 a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a
4 facility for that period of confinement preceding their eighteenth birthday and an
5 adult detention facility for that period of confinement subsequent to their eighteenth
6 birthday. The term "motor vehicle offense" shall not be deemed to include the
7 offense of stealing or converting a motor vehicle nor operating the same without the
8 owner's consent nor any offense which constitutes a felony;

9 (2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the
10 District Court of each county or the family division of the Circuit Court shall have
11 exclusive jurisdiction in proceedings concerning any child living or found within
12 the county who has not reached his or her eighteenth birthday and who allegedly:

13 (a) Is beyond the control of the school or beyond the control of parents as defined
14 in KRS 600.020;

15 (b) Is an habitual truant from school;

16 (c) Is an habitual runaway from his or her parent or other person exercising
17 custodial control or supervision of the child;

18 (d) Is dependent, neglected, or abused;

19 (e) Has committed an alcohol offense in violation of KRS 244.085;~~or~~

20 (f) Is mentally ill; or

21 (g) *Has committed a tobacco, alternative nicotine, or vapor product offense in*
22 *violation of Sections 1 and 3 of this Act.*

23 (3) Actions brought under subsection (1) of this section shall be considered to be public
24 offense actions.

25 (4) Actions brought under subsection (2)(a), (b), (c), and (e) of this section shall be
26 considered to be status offense actions.

27 (5) Actions brought under subsection (2)(d) of this section shall be considered to be

- 1 nonoffender actions.
- 2 (6) Actions brought under subsection (2)(f) of this section shall be considered to be
3 mental health actions.
- 4 (7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the
5 custody or guardianship of children upon writs of habeas corpus or to determine the
6 custody or guardianship of children when such custody or guardianship is incidental
7 to the determination of other causes pending in such other courts; nor shall anything
8 in this chapter affect the jurisdiction of Circuit Courts over adoptions and
9 proceedings for termination of parental rights.
- 10 (8) The court shall have no jurisdiction to make permanent awards of custody of a child
11 except as provided by KRS 620.027.
- 12 (9) If the court finds an emergency to exist affecting the welfare of a child, or if the
13 child is eligible for the relative or fictive kin caregiver assistance as established in
14 KRS 620.142, it may make temporary orders for the child's custody; however, if the
15 case involves allegations of dependency, neglect, or abuse, no emergency removal
16 or temporary custody orders shall be effective unless the provisions of KRS Chapter
17 620 are followed. Such orders shall be entirely without prejudice to the proceedings
18 for permanent custody of the child and shall remain in effect until modified or set
19 aside by the court. Upon the entry of a temporary or final judgment in the Circuit
20 Court awarding custody of such child, all prior orders of the juvenile session of the
21 District Court in conflict therewith shall be deemed canceled. This section shall not
22 work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.
- 23 (10) The court of each county wherein a public offense, as defined in subsection (1) of
24 this section, is committed by a child who is a resident of another county of this state
25 shall have concurrent jurisdiction over such child with the court of the county
26 wherein the child resides or the court of the county where the child is found.
27 Whichever court first acquires jurisdiction of such child may proceed to final

1 disposition of the case, or in its discretion may make an order transferring the case
2 to the court of the county of the child's residence or the county wherein the offense
3 was committed, as the case may be.

4 (11) Nothing in this chapter shall prevent the court from holding a child in contempt of
5 court to enforce valid court orders previously issued by the court, subject to the
6 requirements contained in KRS 610.265 and 630.080.

7 (12) Except as provided in KRS 635.060(4), 630.120(5), or 635.090, nothing in this
8 chapter shall confer upon the District Court or the family division of the Circuit
9 Court, as appropriate, jurisdiction over the actions of the Department of Juvenile
10 Justice or the cabinet in the placement, care, or treatment of a child committed to
11 the Department of Juvenile Justice or committed to or in the custody of the cabinet;
12 or to require the department or the cabinet to perform, or to refrain from
13 performing, any specific act in the placement, care, or treatment of any child
14 committed to the department or committed to or in the custody of the cabinet.

15 (13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment,
16 the court shall have the discretion to amend the petition to reflect jurisdiction
17 pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

18 (14) The court shall have continuing jurisdiction over a child pursuant to subsection (1)
19 of this section, to review dispositional orders, and to conduct permanency hearings
20 under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home
21 to his or her parents with all the court imposed conditions terminated, completes a
22 disposition pursuant to KRS 635.060, or reaches the age of eighteen (18) years.

23 ➔Section 6. KRS 630.020 is amended to read as follows:

24 The court shall have exclusive jurisdiction in proceedings concerning any child living, or
25 found within the district, who allegedly:

26 (1) Has been an habitual runaway from his parent or person exercising custodial control
27 or supervision of the child;

- 1 (2) Is beyond the control of the school or beyond the control of parents as defined in
- 2 KRS 600.020;
- 3 (3) Has been an habitual truant from school;~~[-or]~~
- 4 (4) Has committed an alcohol offense under KRS 244.085; **or**
- 5 **(5) Has committed a tobacco, alternative nicotine, or vapor product offense in**
- 6 **violation of Sections 1 and 3 of this Act.**