

JUVENILE JUSTICE REFORM IN KENTUCKY



KENTUCKY

□ **What makes us Special?**

- Unified Court System with a Single Budget Determined by the Chief Justice
- Single Administrative Office of the Courts to Coordinate Education, Forms, Technology, Personnel, Pretrial Services and the Court Designated Worker's Office
- Uniform Rules of Practice and Procedure for Civil, Criminal, Family Court, and now Juvenile Court

KENTUCKY

- **What makes us like everyone else?**
 - ▣ Not enough Money (and most of it spent on the deep-end youth vs. community services)
 - ▣ Not enough Resources (especially mental health services)
 - ▣ Rural vs. Urban Divide
 - ▣ Issues with the Family aren't limited to the child (domestic violence, substance abuse, generational poverty, trauma)
 - ▣ No Magic Wands

LEGISLATIVE INTENT

- **Reduce the number of children committed to Dept. of Juvenile Justice (or Cabinet for Health and Family Services as Status Offenders)**

WHY?

- **It's in the Best Interests of...EVERYONE!**
- **Invert the Current Spending Structure**
- **It saves \$\$\$\$\$...LOTS OF \$\$\$\$!!!**

HOW?

Expand CDW Diversion Program

- ❑ **Mandatory Diversion Provisions**
- ❑ **Expanded Diversion Eligibility**
- ❑ **CDW Case Specialist**
- ❑ **FAIR Team**

HOW?

Restrict DJJ Commitments

- ❑ No Status Offenders
- ❑ Limited Use of Commitment as a Disposition or Sanction
- ❑ Non-Waivable DJJ Risk/Needs Assessment provided at Disposition
- ❑ Graduated Sanctions
- ❑ Increase DJJ Community Services

FAIR TEAM

KRS 605.035(1)

“There is hereby created in each judicial district a *family accountability, intervention, and response team* that shall develop enhanced case management plans and opportunities for services for children referred to the team.”

A Community Partnership

GRADUATED SANCTIONS

A continuum of **accountability measures, programs and sanctions** ranging from least to most restrictive, including but not limited to:

- Electronic monitoring
- Drug and alcohol testing
- Reporting centers
- Reporting requirements
- Community service
- Rehabilitative interventions (family counseling, substance abuse treatment, restorative justice programs, behavioral and mental health treatment)

KRS 600.020(29). Effective July 15, 2014.

PROBATION

Child must be informed **IN WRITING** of the Consequences of Contempt

Time Limits:

Status Offense: 6 months

Violation: 30 days (or up to 3 months if child is in a court-ordered treatment program)

Misdemeanor/No sex offense or deadly weapon: 6 months (or up to 12 months in a court ordered treatment program)

Felony Class D/No sex offense or deadly weapon: 12 months

Felony Class A,B,C/No sex offense: Up to Age 18

Child Age 17.5 to 18: No more than 12 months

Close Case when Probation Period is Over!

COMMITMENT TO DJJ

Criteria for Commitment

KRS 635.060(4)(a)

Scenario 1:

- A. Current Charge is a Misdemeanor or D Felony; and
- B. 3 Prior Misdemeanor/Felony Adjudications; or 4 Prior Violation Adjudications

Scenario 2: Current charge involves a deadly weapon; or a sex offense; or a Class A,B,C Felony

If Eligible for Commitment, that Commitment may also be Probated if the Court believes community services exist for child to be successful

No Status Offender can be Committed to DJJ, even if child is found to have violated a Valid Court Order

COMMITMENT TO DJJ

Time Limits

Current Charge is a:

Misdemeanor/ No sex offense or deadly weapon: not to exceed 12 months

Class D Felony/No sex offense or deadly weapon: not to exceed 18 months

Class A,B,C Felony or Deadly Weapon: up to age 18

KRS 635.060(4)(b) Effective 7/1/15

Child meeting Juvenile Sexual Offender criteria is committed under old law

Child is 17.5: up to one year per KRS 635.060(6)

CONTEMPT

STATUS CASES:

Valid Court Order

Graduated Sanctions

Detention: Inherent contempt power of the court shall not be diminished except that an order of detention for a child adjudicated to be in contempt (of a valid court order) **shall not exceed thirty (30) days.**

CONTEMPT

PUBLIC OFFENSES:

Graduated Sanctions

Detention: 30 day limit

Commitment to DJJ: Cannot commit to DJJ for contempt unless the child could have been committed to DJJ on the underlying offense and the commitment was probated **KRS 635.060(2)(b)(2)**

Effective 7/1/15

CONTEMPT

MUST use Graduated Sanctions before resorting to Detention or Commitment.

UNLESS....

the court makes a finding by ***clear and convincing evidence*** that no graduated sanction is available/appropriate **AND** the child poses an **immediate** threat to himself/others. **KRS**

635.060(2)(b)(2)

Effective 7/1/15.

ACCOUNTABILITY

- Mandatory Record Keeping and Reporting
- Interagency Communication/Compatible Data Collection and Reporting Systems
- Evidenced Based Services
- Juvenile Justice Oversight Council

Is It Working?

- Overrides of Diversion which accounted for up to 90% of cases in some jurisdictions have been drastically reduced: CDW's and Courts have been trained on addressing attempted overrides of mandatory diversion (70% of cases not eligible for diversion under old law are now being diverted)
- DJJ has released committed youth whose term of commitment would have lapsed under the new law; and are refusing to accept youth who do not meet new criteria for commitment (DJJ Detention population has dropped 60%)

NEXT STEPS

- Necessary “Fixes” to Statutes and Rules
- Record Keeping and Planning Relating to DMC and Disparate Treatment
- Establishing an Age of Criminal Responsibility
- Developing a Uniform Plan for the Potential Rehabilitation of Youth Declared Incompetent

Thank You!

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