

**610.030 Preliminary intake inquiry procedures -- Resulting actions -- Formal conference -- Diversion agreement.**

Except as otherwise provided in KRS Chapters 600 to 645:

- (1) If any person files a complaint alleging that a child, except a child alleged to be neglected, abused, dependent or mentally ill who is subject to the jurisdiction of the court, may be within the purview of KRS Chapters 600 to 645, the court-designated worker shall make a preliminary determination as to whether the complaint is complete. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request additional information in order to complete the complaint. The complainant shall promptly furnish the additional information requested;
- (2)
  - (a) Upon receipt of a complaint which appears to be complete and which alleges that a child has committed a public offense, the court-designated worker shall refer the complaint to the county attorney for review pursuant to KRS 635.010.
  - (b) If after review the county attorney elects to proceed, the court-designated worker shall conduct a preliminary intake inquiry to recommend whether the interests of the child or the public require that further action be taken or whether, in the interest of justice, the complaint can be resolved informally without the filing of a petition;
- (3) Upon receipt of a complaint that appears to be complete and that alleges that the child has committed a status offense, the court-designated worker shall conduct a preliminary intake inquiry to determine whether the interests of the child or the public require that further action be taken;
- (4) Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian, or other person exercising custodial control or supervision of the child in writing:
  - (a) Of their opportunity to be present at the preliminary intake inquiry;
  - (b) That they may have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;
  - (c)
    1. That all information supplied by the child to a court-designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child.
    2. Information may be shared between treatment providers, the court-designated worker, and the family accountability, intervention, and response team to enable the court-designated worker to facilitate services and facilitate compliance with the diversion agreement; and
  - (d) That the child has the right to deny the allegation and demand a formal court hearing;
- (5) The preliminary intake inquiry shall include the administration of an evidence-based

screening tool and, if appropriate and available, a validated risk and needs assessment, in order to identify whether the child and his or her family are in need of services and the level of intervention needed;

- (6) Upon the completion of the preliminary intake inquiry, the court-designated worker may:
  - (a) If the complaint alleges a status offense, determine that no further action be taken subject to review by the family accountability, intervention, and response team;
  - (b) If the complaint alleges a public offense, refer the complaint to the county attorney;
  - (c) Refer a public offense complaint for informal adjustment; or
  - (d) Based upon the results of the preliminary intake inquiry, other information obtained, and a determination that the interests of the child and the public would be better served, and with the written approval of the county attorney for a public offense complaint, if necessary, conduct a formal conference and enter into a diversion agreement;
- (7) Upon receiving written approval of the county attorney, if necessary, to divert a public offense complaint, and prior to conducting a formal conference, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense:
  - (a) Of the recommendation and the reasons therefor and that the complainant, victim, or law enforcement agency may submit within ten (10) days from receipt of such notice a complaint to the county attorney for special review; or
  - (b) In the case of a misdemeanor diverted pursuant to KRS 635.010(4), of the fact that the child was statutorily entitled to divert the case;
- (8) A formal conference shall include the child and his or her parent, guardian, or other person exercising custodial control or supervision. The formal conference shall be used to:
  - (a) Present information obtained at the preliminary intake inquiry; and
  - (b) Develop a diversion agreement that shall require that the child regularly attend school, shall not exceed six (6) months in duration, and may include:
    1. Referral of the child, and family if appropriate, to a public or private entity or person for the provision of identified services to address the complaint or assessed needs;
    2. Referral of the child, and family if appropriate, to a community service program within the limitations provided under KRS 635.080(2);
    3. Restitution, limited to the actual pecuniary loss suffered by the victim, if the child has the means or ability to make restitution;
    4. Notification that the court-designated worker may apply graduated sanctions for failure to comply with the diversion agreement;
    5. Any other program or effort which reasonably benefits the community and the child; and

6. A plan for monitoring the child's progress and completion of the agreement;
- (9) (a) If a child successfully completes a diversion agreement, the underlying complaint shall be dismissed and further action related to that complaint shall be prohibited.
  - (b) If a child fails to appear for a preliminary intake inquiry, declines to enter into a diversion agreement, or fails to complete a diversion agreement, then:
    1. For a public offense complaint, the matter shall be referred to the county attorney for formal court action and, if a petition is filed, the child may request that the court dismiss the complaint based upon his or her substantial compliance with the terms of diversion; and
    2. For a status offense complaint, the court-designated worker shall refer the matter to the family accountability, intervention, and response team for review and further action;
- (10) If a complaint is referred to the court, the complaint and findings of the court-designated worker's preliminary intake inquiry shall be submitted to the court for the court to determine whether process should issue; and
  - (11) At any stage in the proceedings described in this section, the court or the county attorney may review any decision of the court-designated worker. The court upon its own motion or upon written request of the county attorney may refer any complaint for a formal hearing.

**Effective:** July 1, 2015

**History:** Amended 2014 Ky. Acts ch. 132, sec. 36, effective July 1, 2015. -- Amended 1988 Ky. Acts ch. 350, sec. 15, effective April 10, 1988. -- Created 1986 Ky. Acts ch. 423, sec. 22, effective July 1, 1987.