

CHAPTER 10

(HB 180)

AN ACT relating to fictive kin.

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

➔SECTION 1. KRS 199.011 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

- (1) *"Adoption worker" means an employee of the cabinet so designated by the secretary for health and family services, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;*
- (2) *"Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;*
- (3) *"Cabinet" means the Cabinet for Health and Family Services;*
- (4) *"Child" means any person who has not reached his eighteenth birthday;*
- (5) *"Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, 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, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;*
- (6) *"Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;*
- (7) *"Department" means the Department for Community Based Services;*
- (8) *"Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;*
- (9) *"Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;*
- (10) *"Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;*
- (11) *"Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;*
- (12) *"Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;*
- (13) *"Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption;*
- (14) *"Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);*
- (15) *"Secretary" means the secretary for health and family services; and*
- (16) *"Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting*

person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person and include the following:

- (a) *Date, time, and place of the execution of the consent;*
- (b) *Name of the child, if any, to be adopted and the date and place of the child's birth;*
- (c) *Consenting person's relationship to the child;*
- (d) *Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;*
- (e) *A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.*
 - 1. *If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first-class mail.*
 - 2. *If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first-class mail;*
- (f) *Disposition of the child if the adoption is not adjudged;*
- (g) *A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;*
- (h) *Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and*
- (i) *Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.*

➔Section 2. KRS 199.462 is amended to read as follows:

- (1) Before an applicant is approved to provide foster care or relative caregiver services to a child, ***be considered a fictive kin placement for a child***, or approved to receive a child for adoption, the Cabinet for Health and Family Services shall:
 - (a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; or
 - (b) Request from the Justice and Public Safety Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice and Public Safety Cabinet shall furnish the information to the Cabinet for Health and Family Services and shall also send a copy of the information to the applicant.
- (2) The request for records shall be on a form approved by the Justice and Public Safety Cabinet, and the Justice and Public Safety Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.
- (3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Health and Family Services may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.
- (4) ***If a child is placed and resides in a fictive kin home for more than seventy-two (72) hours, the Cabinet for Health and Family Services shall take action, including but not limited to the following:***

- (a) *Provide information on how to recognize and report child abuse or neglect; and*
 - (b) *Ensure that, within the first five (5) days of a child under the age of five (5) years old being placed in a fictive kin home, the fictive kin has completed a one (1) time training course of one and one-half (1.5) hours of training covering the prevention and recognition of pediatric abusive head trauma, as defined in KRS 620.020.*
- (5) The Cabinet for Health and Family Services shall promulgate an administrative regulation to implement this section.

➔Section 3. 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) ***"Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;***
- (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- ~~(30)(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;
- ~~(31)(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;
- ~~(32)(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;
- ~~(33)(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;
- ~~(34)(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;
- ~~(35)(34)~~ "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

- (36)~~(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;
- (37)~~(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;
- (38)~~(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;
- (39)~~(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;
- (40)~~(39)~~ "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (41)~~(40)~~ "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (42)~~(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;
- (43)~~(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;
- (44)~~(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;
- (45)~~(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, *fictive kin home*, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;
- (46)~~(45)~~ "Parent" means the biological or adoptive mother or father of a child;
- (47)~~(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;
- (48)~~(47)~~ "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (49)~~(48)~~ "Physical injury" means substantial physical pain or any impairment of physical condition;
- (50)~~(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;
- (51)~~(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;
- (52)~~(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;
- (53)~~(52)~~ "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);
- (54)~~(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;
- (55)~~(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;
- (56)~~(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;
- (57)~~(56)~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (58)~~(57)~~ "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (59)~~(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;
- (60)~~(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;
- (61)~~(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;
- (62)~~(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;

- (63)~~((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;
- (64)~~((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;
- (65)~~((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;
- (66)~~((65))~~ "Take into 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 for a period of time not to exceed two (2) hours;
- (67)~~((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;
- (68)~~((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;
- (69)~~((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;
- (70)~~((69))~~ "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;
- (71)~~((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
- (72)~~((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 4. KRS 605.090 is amended to read as follows:
- (1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his or her commitment, be:

- (a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;
 - (b) Placed in the home of the child's parents, in the home of a relative, *a fictive kin*, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social service worker or juvenile probation and parole officer.
 - 1. At the time a committed child is placed in the home of his or her parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary.
 - 2. At the time a committed child is placed anywhere other than the home of the child's parents, the cabinet or the Department of Juvenile Justice shall inform the foster home, the relative, *the fictive kin*, or the governing authority of any private facility or agency in which the child has been placed whether the minor placed is a juvenile sexual offender as defined in KRS 635.505(2) or of any inappropriate sexual acts or sexual behavior by the child specifically known to the cabinet or Department of Juvenile Justice, and any behaviors of the child specifically known to the cabinet or Department of Juvenile Justice that indicate a safety risk for the placement. Information received by any private facility or agency under this paragraph shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
 - 3. If, after a placement is made, additional information is obtained by the cabinet or the Department of Juvenile Justice about inappropriate sexual behavior or other behavior of the committed child that may indicate a safety risk for the placement, the cabinet or the Department of Juvenile Justice shall as soon as practicable, but no later than seventy-two (72) hours after the additional information is received, inform the foster parent, relative, *fictive kin*, or private facility or agency. Additional information received by any private facility or agency shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
 - 4. Information disclosed under this paragraph shall be limited to the acts or behaviors of the committed child and shall not constitute a violation of confidentiality under KRS Chapter 610 or 620. No foster parent, relative, *fictive kin*, or other person caring for a committed child shall divulge the information received under this paragraph to persons who do not have a legitimate interest or responsibility relating to the case. Nothing in this subparagraph shall prohibit the disclosure or sharing of information between a foster parent, *relative, fictive kin*, custodian, private facility, or governmental entity for the protection of any child. A violation of this subparagraph is a Class B misdemeanor;
 - (c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(2)(a), (b), or (c) shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;
 - (d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;
 - (e) However, under no circumstances shall a child committed under KRS Chapter 620 be placed in a home, facility, or other shelter with a child who has been committed to the Department of Juvenile Justice for commission of a sex crime, as that term is defined in KRS 17.500, unless the child committed for the commission of a sex crime is kept segregated from other children in the home, facility, or other shelter that have not been committed for the commission of a sex crime;
 - (f) Treated as provided in KRS Chapter 645;
 - (g) Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), (e), or (f) of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.
- (2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders, except that a child charged with the commission of a

capital offense or with an offense designated as a Class A or Class B felony may be detained in a state-operated detention facility when there is no available less restrictive alternative.

- (3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:
 - (a) If the social service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;
 - (b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;
 - (c) If a social service worker finds a committed, unattended child who is too young to take care of himself, the social service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or
 - (d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.
- (4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.
- (5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.
- (6) The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum, demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available,

provided that no information shall be provided that violates any statutory confidentiality requirements. The transfer summary shall state whether the child placed is a juvenile sexual offender as defined in KRS 635.505(2), and include information required under subsection (1) of this section. The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.

- (7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

➔Section 5. KRS 610.125 is amended to read as follows:

- (1) If a child has been removed from the home and placed in the custody of the Department of Juvenile Justice or the cabinet, a judge of the District Court shall conduct a permanency hearing no later than twelve (12) months after the date the child is considered to have entered foster care, and every twelve (12) months thereafter if custody and out-of-home placement continues, to determine the future status of the child. For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty (60) days after the date on which the child is removed from the home.

The court shall address the following areas:

- (a) If parental rights have not been terminated, whether the child should be returned to the parent;
 - (b) Whether the child should be placed for adoption;
 - (c) Whether the child should be placed with a permanent custodian; and
 - (d) Whether the cabinet has documented a compelling reason that it is in the best interest of the child who is age sixteen (16) or older to be placed in another planned permanent living arrangement other than those listed in this subsection. Prior to the approval of this permanency goal, the court shall:
 1. Ask the child about the desired permanency outcome; and
 2. Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency goal for the child and provide compelling reasons why it continues to not be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative *or fictive kin*.
- (2) If the cabinet or the Department of Juvenile Justice determines that reasonable efforts to reunify the child with the child's parent will not be made, the cabinet or Department of Juvenile Justice shall file a case permanency plan as defined by KRS 620.230 or case progress report with the court that documents the reasons for not making reasonable efforts. The court shall hold a permanency hearing within thirty (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or report with the Court.
- (3) The Department of Juvenile Justice or the cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section, and shall further inform the court of the name and address of the child's foster parents, preadoptive parents, *fictive kin*, or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case. For the hearing to be held pursuant to subsection (2) of this section, the names and addresses of the persons identified in this subsection shall be provided in the case permanency plan or case progress report to be filed with the court. The court shall set a time for the hearing and notify the child's parent, foster parents, preadoptive parents, *fictive kin*, or relatives providing care to the child and who also shall have a right to be heard; court-appointed special advocate; foster care review board member assigned to the case; attorney for the child; attorney for the parent, if any; and the Department of Juvenile Justice or the cabinet.
- (4) The Department of Juvenile Justice or the cabinet shall present evidence to the court concerning the care and progress of the child since the last permanency hearing, including the following:
- (a) The length of time the child has been committed to the Department of Juvenile Justice or the cabinet;

- (b) The number, location, and date for each placement during the total period of the child's commitment;
 - (c) A description of the services and assistance provided to the parent or arranged by the Department of Juvenile Justice or the cabinet since the last case permanency plan or case progress report, and the results achieved;
 - (d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;
 - (e) The familial and institutional barriers to:
 - 1. Returning the child to the home;
 - 2. Ending the commitment of the child to the Department of Juvenile Justice or the cabinet; and
 - 3. Delivery of appropriate services needed by the child;
 - (f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of fourteen (14) years;
 - (g) An evaluation of the child's current placement and services provided to the child;
 - (h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement;
 - (i) Recommendations as to the permanency goal for the child; and
 - (j) For a child with another planned permanency arrangement as the child's permanency goal:
 - 1. The intensive, ongoing efforts to return the child to the home or secure a placement with a fit and willing relative, legal guardian, *fictive kin*, or adoptive parent, including efforts that utilize search technology to find the biological family;
 - 2. The steps the agency is taking to ensure that the child's foster family home or licensed child-caring facility is following the reasonable and prudent parent standard in accordance with 42 U.S.C. sec. 671; and
 - 3. The cabinet's efforts to ensure the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the child in an age and developmentally appropriate manner about the opportunities of the child to participate in the activities.
- (5) (a) The child's parent, foster parent, preadoptive parent, *fictive kin*, or relative providing care to the child shall have the right to be heard; and
- (b) The attorney for the parent, attorney for the child, or court-appointed special advocate, if deemed appropriate by the court, may present any evidence relevant to the determination of a permanency goal for the child.
- (6) Upon conclusion of the hearing the court shall make a written order determining the permanency plan for the child.
- (7) If necessary, the case may be redocketed for further review of the progress toward the implementation of the permanency plan established at the permanency hearing.
- ➔Section 6. KRS 620.140 is amended to read as follows:
- (1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:
- (a) Informal adjustment of the case;
 - (b) Protective orders, such as the following:
 - 1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;
 - 2. Placing the child in his own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and

3. Orders authorized by KRS 403.715 to 403.785 and by KRS Chapter 456;
- (c) Removal of the child to the custody of an adult relative, *fictive kin*, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child;
 - (d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or
 - (e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining nineteen (19) years of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).
- (2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

Signed by Governor March 10, 2017.