

CHAPTER 73

(HB 2)

AN ACT relating to relative and fictive kin caregivers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall develop custodial, permanency, and service options, including but not limited to monetary supports, that shall be available to a relative or fictive kin caregiver in the instance that a child, who would otherwise be placed in another out-of-home placement, is placed with him or her due to a cabinet finding that the child is abused, neglected, or dependent, as determined by an assessment or investigation conducted in accordance with this chapter.*
- (2) *The cabinet shall disclose to a prospective relative or fictive kin caregiver each of the options established in subsection (1) of this section prior to the child's placement. The prospective relative or fictive kin caregiver shall select the option that best represents the level of care and support needed for the child while the child is receiving treatment and care in the placement with the relative or fictive kin caregiver.*
- (3) *The custodial, permanency, and service options required by subsection (1) of this section shall reflect nationally recognized best practices.*
- (4) *The cabinet shall maximize services available under federal and state law, including but not limited to Titles IV and XIX of the Social Security Act, to fulfill the requirements of this section.*
- (5) *The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*

➔Section 2. KRS 405.023 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall create a centralized statewide service program that provides information and referrals through a statewide toll-free telephone number to grandparents and other caregivers who are caring for minors who are not their biological children.
- (2) The program shall provide information on a wide variety of services, including but not limited to:
 - (a) Kentucky Transitional Assistance Program;
 - (b) Health care and services, including the Kentucky Children's Health Insurance Program;
 - (c) Educational services;
 - (d) Child care;
 - (e) Child support;
 - (f) Support groups;
 - (g) Housing assistance;
 - (h) Legal services; and
 - (i) Respite care for low-income kinship *or fictive kin* caregivers.

As used in this paragraph, "fictive kin" has the same meaning as in KRS 600.020.

- (3) The cabinet may coordinate this program with the KyCARES Program.
- (4) This program shall be known as the KinCare Support Program.

➔Section 3. KRS 605.120 is amended to read as follows:

- (1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children who would otherwise be placed in foster care or who are placed by the cabinet in a foster home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.

- (2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.
- (3) The cabinet shall review reimbursement rates paid to foster parents on a biennial basis and shall issue a report in October of each odd-numbered year to the Child Welfare Oversight and Advisory Committee established in KRS 6.943 comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.
- (4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.
- (5) (a) ***The cabinet shall track and analyze data on relative and fictive kin caregiver placements. The data shall include but not be limited to"***
1. ***Demographic data on relative and fictive kin caregivers and children in their care;***
 2. ***Custodial options selected by the relative and fictive kin caregivers;***
 3. ***Services provisioned to relative and fictive kin caregivers and children in their care; and***
 4. ***Permanency benchmarks and outcomes for relative and fictive kin caregiver placements.***
- (b) ***By September 30, 2020, and upon request thereafter, the cabinet shall submit a report to the Governor, the Chief Justice of the Supreme Court, and the director of the Legislative Research Commission for distribution to the Child Welfare Oversight and Advisory Committee and the Interim Joint Committee on Health and Welfare and Family Services relating to the data tracking and analysis established in this subsection.*** ~~To the extent funds are available, the cabinet may establish a program for kinship care, monetary provisions for relative caregivers, a guardianship assistance program under federal Title IV E of the Social Security Act, and other relative caregiver and fictive kin services that support a safe, developmentally appropriate, and more permanent placement with a qualified relative or fictive kin for a child who would otherwise be placed in another out-of-home placement.~~
- ~~(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section.~~
- ~~(6)(7)~~ Foster parents shall have the authority, unless the cabinet determines that the child's religion, race, ethnicity, or national origin prevents it, to make decisions regarding haircuts and hairstyles for foster children who are in their care for thirty (30) days or more.
- ➔Section 4. KRS 610.010 is amended to read as follows:
- (1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

- (2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:
- (a) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
 - (b) Is an habitual truant from school;
 - (c) Is an habitual runaway from his or her parent or other person exercising custodial control or supervision of the child;
 - (d) Is dependent, neglected, or abused;
 - (e) Has committed an alcohol offense in violation of KRS 244.085;
 - (f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or
 - (g) Is mentally ill.
- (3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.
- (4) Actions brought under subsection (2)(a), (b), (c), (e), and (f) of this section shall be considered to be status offense actions.
- (5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.
- (6) Actions brought under subsection (2)(g) of this section shall be considered to be mental health actions.
- (7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.
- (8) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.
- (9) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for *the relative or fictive kin caregiver assistance* ~~kinship care~~ as established in *Section 1 of this Act* ~~[KRS 605.120]~~, it may make temporary orders for the child's custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.
- (10) The court of each county wherein a public offense, as defined in subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.
- (11) Nothing in this chapter shall prevent the court from holding a child in contempt of court to enforce valid court orders previously issued by the court, subject to the requirements contained in KRS 610.265 and 630.080.
- (12) Except as provided in KRS 635.060(4), 630.120(5), or 635.090, nothing in this chapter shall confer upon the District Court or the family division of the Circuit Court, as appropriate, jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or committed to or in the custody of the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or committed to or in the custody of the cabinet.

- (13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.
- (14) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, completes a disposition pursuant to KRS 635.060, or reaches the age of eighteen (18) years.

Signed by Governor March 25, 2019.