

CHAPTER 128**(HB 513)**

AN ACT relating to substance use disorder treatment and recovery services and programs.

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

➔Section 1. KRS 12.500 is amended to read as follows:

As used in KRS 12.500 to 12.520, unless the context otherwise requires:

- (1) "Government funding" means financial assistance received by nongovernment entities in the form of federal, state, or local government grants, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance. "Government funding" does not include tax credits, deductions, or exemptions.
- (2) "Social service program" means a program administered by the federal, state, or local government using government funding to provide social services directed at reducing poverty, improving opportunities for low-income adults or children, self-sufficiency, rehabilitation, or other services directed toward vulnerable citizens. "Social service program" includes but is not limited to:
 - (a) Adult or child day care;
 - (b) Adult or child protective services, foster care, or adoption, including programs relating to domestic violence;
 - (c) Services for adults or children with special needs or disabilities;
 - (d) Job training and related services, and employment services;
 - (e) Transportation services;
 - (f) Food or meal preparation or delivery services relating to soup kitchens or food banks;
 - (g) **Substance use disorder**~~[Alcohol and other drug abuse]~~ prevention and treatment;
 - (h) Health support services;
 - (i) Literacy and educational services, including adult education services;
 - (j) Crime prevention services and assistance to the victims and family members of criminal offenders; and
 - (k) Services for housing assistance as provided under local, state, and federal law.

➔Section 2. KRS 202A.0819 is amended to read as follows:

- (1) At a hearing and at all stages of a proceeding for court-ordered assisted outpatient treatment, the respondent shall be:
 - (a) Represented by counsel;
 - (b) Accompanied by a peer support specialist or other person in a support relationship, if requested by the respondent; and
 - (c) Afforded an opportunity to present evidence, call witnesses on his or her behalf, and cross-examine adverse witnesses.
- (2) If a respondent does not appear at the hearing, and appropriate attempts to elicit the respondent's appearance have failed, the court may conduct the hearing in the respondent's absence.
- (3) A qualified mental health professional who recommends court-ordered assisted outpatient treatment for the respondent shall:
 - (a) Testify at the hearing, in person or via electronic means;
 - (b) State the facts and clinical determinations which support the allegation that the respondent meets the criteria stated in KRS 202A.0815; and

- (c) Testify in support of the treatment plan provided pursuant to KRS 202A.0817, and for each category of proposed evidence-based treatment, he or she shall state the specific recommendation and the clinical basis for his or her belief that such treatment is essential to the maintenance of the respondent's health or safety.
- (4) If after hearing all relevant evidence, the court does not find by clear and convincing evidence that the respondent meets the criteria stated in KRS 202A.0815, the court shall deny the petition and the proceedings against the respondent shall be dismissed.
- (5) If after hearing all relevant evidence, the court finds by clear and convincing evidence that the respondent meets the criteria stated in KRS 202A.0815, the court may order the respondent to receive assisted outpatient treatment for a period of time not to exceed three hundred sixty (360) days. The court's order shall incorporate a treatment plan, which shall be limited in scope to the recommendations included in the treatment plan provided by the qualified mental health professional pursuant to KRS 202A.0817.
- (6) The court shall report every order for assisted outpatient treatment issued under this section to the ***Department for Behavioral Health, Developmental and Intellectual Disabilities*** ~~Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses established pursuant to KRS 210.502].~~

➔Section 3. KRS 210.365 is amended to read as follows:

- (1) As used in this section:
 - (a) "Crisis intervention team (CIT) training" means a forty (40) hour training curriculum based on the Memphis Police Department Crisis Intervention Team model of best practices for law enforcement intervention with persons who may have a mental illness, substance ~~use~~~~abuse~~ disorder, an intellectual disability, developmental disability, or dual diagnosis that meets the requirements of subsections (2) to (5) of this section and is approved by the Kentucky Law Enforcement Council;
 - (b) "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities;
 - (c) "Prisoner" has the same meaning as set out in KRS 441.005; and
 - (d) "Qualified mental health professional" has the same meaning as set out in KRS 202A.011.
- (2) The department shall, in collaboration with the Justice and Public Safety Cabinet, the regional community boards for mental health or individuals with an intellectual disability, and representatives of the Kentucky statewide affiliate of the National Alliance on Mental Illness, coordinate the development of CIT training designed to train law enforcement officers to:
 - (a) Effectively respond to persons who may have a mental illness, substance ~~use~~~~abuse~~ disorder, intellectual disability, developmental disability, or dual diagnosis;
 - (b) Reduce injuries to officers and citizens;
 - (c) Reduce inappropriate incarceration;
 - (d) Reduce liability; and
 - (e) Improve risk management practices for law enforcement agencies.
- (3) The CIT training shall include but not be limited to:
 - (a) An introduction to crisis intervention teams;
 - (b) Identification and recognition of the different types of mental illnesses, substance ~~use~~~~abuse~~ disorders, intellectual disabilities, developmental disabilities, and dual diagnoses;
 - (c) Interviewing and assessing a person who may have a mental illness, substance ~~use~~~~abuse~~ disorder, intellectual disability, developmental disability, or dual diagnosis;
 - (d) Identification and common effects of psychotropic medications;
 - (e) Suicide prevention techniques;
 - (f) Community resources and options for treatment;

- (g) Voluntary and involuntary processes for hospitalization of a person with a mental illness, substance ~~use[abuse]~~ disorder, intellectual disability, developmental disability, or dual diagnosis; and
 - (h) Hostage or other negotiations with a person with a mental illness, intellectual disability, substance ~~use[abuse]~~ disorder, developmental disability, or dual diagnosis.
- (4) The curriculum shall be presented by a team composed of, at a minimum:
- (a) A law enforcement training instructor who has completed a forty (40) hour CIT training course and a CIT training instructor's course which has been approved by the Kentucky Law Enforcement Council, and at least forty (40) hours of direct experience working with a CIT;
 - (b) A representative from the local community board for mental health or individuals with an intellectual disability serving the region where CIT training is conducted;
 - (c) A consumer of mental health services; and
 - (d) A representative of the Kentucky statewide affiliate of the National Alliance on Mental Illness.
- (5)
- (a) The department shall submit the CIT training curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training to the Kentucky Law Enforcement Council no later than July 1, 2007.
 - (b) The Kentucky Law Enforcement Council shall notify the department of approval or disapproval of the CIT training curriculum and trainers within thirty (30) days of submission of the curriculum and the names of instructors.
 - (c) The Kentucky Law Enforcement Council may waive instructor requirements for non-law enforcement trainers whose names are submitted by the department.
 - (d) If the curriculum or trainers are not approved, the department shall have an opportunity to revise and resubmit the curriculum and to submit additional names of instructors if necessary.
- (6) If the curriculum is approved, the Kentucky Law Enforcement Council shall:
- (a) Notify the Department of Kentucky State Police and all law enforcement agencies employing peace officers certified under KRS 15.380 to 15.404 of the availability of the CIT training; and
 - (b) Notify all instructors and entities approved for law enforcement training under KRS 15.330 of the availability of the CIT training.
- (7) Any law enforcement training entity approved by the Kentucky Law Enforcement Council may use the CIT training model and curriculum in law enforcement in-service training as specified by subsection (1) of this section that is consistent with the Memphis CIT national model for best practices.
- (8) No later than one (1) year after June 26, 2007, the department shall submit to the Kentucky Law Enforcement Council a CIT training instructors' curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training instructors' training. Additional instructors may be submitted on a schedule determined by the Kentucky Law Enforcement Council.
- (9) All CIT-trained law enforcement officers shall report to his or her agency on forms provided with the CIT curriculum on encounters with persons with mental illness, substance ~~use[abuse]~~ disorders, intellectual disabilities, developmental disabilities, and dual diagnoses. The law enforcement agency shall aggregate reports received and submit nonidentifying information to the department on a monthly basis. Except for information pertaining to the number of law enforcement agencies participating in CIT training, the reports to the department shall include the information specified in subsection (10) of this section.
- (10) The department shall aggregate all reports from law enforcement agencies under subsection (9) of this section and submit nonidentifying statewide information to the Justice and Public Safety Cabinet, the Criminal Justice Council, the Cabinet for Health and Family Services, and the Interim Joint Committee on Health and Welfare by December 1, 2008, and annually thereafter. The report shall include but not be limited to:
- (a) The number of law enforcement officers trained per agency;
 - (b) Law enforcement responses to persons with mental illness, substance ~~use[abuse]~~ disorders, intellectual disabilities, developmental disabilities, and dual diagnoses;
 - (c) Incidents of harm to the law enforcement officer or to the citizen;

- (d) The number of times physical force was required and the type of physical force used; and
 - (e) The outcome of the encounters that may include but not be limited to incarceration or hospitalization.
- (11) To implement the requirements of subsections (2) to (5) and (8) to (10) of this section, the department may use public or private funds as available and may develop a contract with a nonprofit entity that is a Kentucky statewide mental health advocacy organization that has a minimum of five (5) years of experience in implementation of the CIT training program in Kentucky.
- (12) The Cabinet for Health and Family Services shall create a telephonic behavioral health jail triage system to screen prisoners for mental health risk issues, including suicide risk. The triage system shall be designed to give the facility receiving and housing the prisoner an assessment of his or her mental health risk, with the assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system. The triage system shall consist of:
- (a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, intellectual disabilities, and acquired brain injury risk factors; and
 - (b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.
- (13) In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:
- (a) The Department of Corrections;
 - (b) The Kentucky Jailers Association; *and*
 - (c) ~~{The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and~~
 - ~~(d) —~~ }The regional community services programs for mental health or individuals with an intellectual disability created under KRS 210.370 to 210.460.
- (14) The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community services programs for mental health or individuals with an intellectual disability created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.
- (15) The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.
- (16) The cost of operating the telephonic behavioral health jail triage system shall be borne by the cabinet.
- (17) Records generated under this section shall be treated in the same manner and with the same degree of confidentiality as other medical records of the prisoner.
- (18) Unless the prisoner is provided with an attorney during the screening and assessment, any statement made by the prisoner in the course of the screening or assessment shall not be admissible in a criminal trial of the prisoner, unless the trial is for a crime committed during the screening and assessment.
- (19) The cabinet may, after consultation with those entities set out in subsection (13) of this section, promulgate administrative regulations for the operation of the telephonic behavioral health jail triage system and the establishment of its recommended protocols for prisoner housing, supervision, and care.

➔Section 4. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health and Family Services, each community board for mental health or individuals with an intellectual disability shall:

- (1) Review and evaluate services for mental health or individuals with an intellectual disability provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health and Family Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;
- (2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

- (3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;
- (4) Adopt and implement policies to stimulate effective community relations;
- (5) Be responsible for the development and approval of an annual plan and budget;
- (6) Act as the administrative authority of the community program for mental health or individuals with an intellectual disability;
- (7) Oversee and be responsible for the management of the community program for mental health or individuals with an intellectual disability in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health and Family Services;
- (8) Comply with the provisions of KRS 65A.010 to 65A.090; and
- (9) Deliver the training recommended by *the Department for Behavioral Health, Developmental and Intellectual Disabilities* for ~~KRS 210.504~~ local jailers and other officers of the court who may come in contact with persons deemed mentally ill and who are incarcerated or in detention.

➔Section 5. KRS 210.485 is amended to read as follows:

Regional community boards for mental health or individuals with an intellectual disability shall, on at least an annual basis, submit the following lists to the circuit clerks in each board's region:

- (1) A list of hospitals and psychiatric facilities in the judicial districts within the board's region which are able and willing to take respondents ordered to undergo seventy-two (72) hours of treatment and observation pursuant to KRS 222.434; and
- (2) A list of hospitals and treatment providers in the judicial districts within the board's region who are able and willing to provide treatment for *substance use disorder*~~{alcohol and other drug abuse}~~ ordered pursuant to KRS 222.433.

➔Section 6. KRS 210.506 is amended to read as follows:

- (1) The regional community boards for mental health or individuals with an intellectual disability established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning. The councils shall be attached to the community boards for mental health or individuals with an intellectual disability for administrative purposes.
- (2) A member of the regional community board for mental health or individuals with an intellectual disability shall serve as chair of the regional planning council.
- (3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:
 - (a) Family members of individuals with mental illness, *substance use disorder*~~{alcohol and other drug abuse disorders}~~, and dual diagnoses;
 - (b) Consumers of mental health and substance *use disorder*~~{abuse}~~ services;
 - (c) County officials and business leaders;
 - (d) Health departments and primary care physicians;
 - (e) Advocates and community organizations;
 - (f) Educators and school personnel;
 - (g) Regional interagency councils established under KRS Chapter 200;
 - (h) Law enforcement and court personnel;
 - (i) Public and private organizations, agencies, or facilities that provide services for mental health and substance *use disorder*~~{abuse}~~ in the region that represent inpatient services, outpatient services, residential services, and community-based supportive housing programs;
 - (j) Individuals who provide mental health and substance *use disorder*~~{abuse}~~ services in the region; and

(k) Public and private hospitals that provide mental health and substance *use disorder*~~[abuse]~~ services.

(4) The regional planning councils may establish bylaws and procedures to assist in the operation of the councils.

➔Section 7. KRS 210.509 is amended to read as follows:

(1) The regional planning councils shall meet as often as necessary to accomplish their purpose.

(2) The regional planning councils shall:

(a) Assess in the region the needs of individuals with mental illness, *substance use*~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses;

(b) 1. Study the regional mental health and substance *use disorder*~~[abuse]~~ treatment delivery system and identify specific barriers in each region to accessing services;

2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system and the adequacy and availability of the mental health and substance *use disorder*~~[abuse]~~ professional workforce in each region; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities;

(c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, *substance use*~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses. The strategies may include:

1. Exploration of the use of community-based treatment programs, including but not limited to community-based hospitalization;

2. Access to and funding for the most effective medications;

3. Promotion of family and consumer support groups statewide;

4. Reduction of instances of criminalization of individuals with mental illness, *substance use*~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses; and

5. Efforts to increase housing options for persons at risk of institutionalization;

(d) Identify funding~~[needs and report to the commission established in KRS 210.502 about the use of any flexible safety net funding if appropriated by the General Assembly]~~;

(e) Evaluate the access of children and youth to mental health and substance *use disorder*~~[abuse]~~ services and preventive programs within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance *use disorder*~~[abuse]~~ providers and facilities, physical health care providers and facilities, the faith community, and community agencies;

(f) Collect and evaluate data regarding individuals with mental illness, *substance use*~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services; and

(g) Make recommendations on each subsection of this section *in*~~[to the commission established under KRS 210.502 by July 1 of each odd-numbered year. These recommendations may be incorporated into]~~ the regional annual plans required by KRS 210.400.

➔Section 8. KRS 214.185 is amended to read as follows:

(1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, *or substance use disorder*~~[alcohol or other drug abuse or addiction]~~ and may advise, prescribe for, and treat such minor regarding venereal disease, *substance use disorder*~~[alcohol and other drug abuse or addiction]~~, contraception, pregnancy, or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.

- (2) Any physician may provide outpatient mental health counseling to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.
- (3) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage or borne a child may give consent to the furnishing of hospital, medical, dental, or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such married or emancipated minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of marriage or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.
- (4) Medical, dental, and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.
- (5) The consent of a minor who represents that he may give effective consent for the purpose of receiving medical, dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.
- (6) The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.
- (7) Except as otherwise provided in this section, parents, the Cabinet for Health and Family Services, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

➔Section 9. KRS 222.003 is amended to read as follows:

- (1) The programs or activities of the voluntary self-help organizations known as Alcoholics Anonymous, Narcotics Anonymous, Al-Anon, and similar organizations in the area of **substance use disorder**~~alcohol and other drug abuse~~ rehabilitation shall not be restricted or regulated by the provisions of this chapter.
- (2) The programs or activities of voluntary community groups and agencies, such as Students Against Drunk Driving, National Federation of Parents, Parent Resource Institute for Drug Education, and similar organizations in the area of **substance use disorder**~~alcohol and other drug abuse~~ prevention, shall not be restricted or regulated by the provisions of this chapter.
- (3) Nothing contained in this chapter shall affect any laws, administrative regulations, ordinances, resolutions, or local regulations against driving under the influence of alcohol or other drugs, or other similar offenses that involve the operation of motor vehicles, machinery, or other hazardous equipment.

➔Section 10. KRS 222.005 is amended to read as follows:

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

- (1) "Administrator" means the person or the designee of the person, in charge of the operation of **substance use disorder**~~an alcohol and other drug abuse~~ prevention, intervention, or treatment program;
- (2) "Agency" means a legal entity operating hospital-based or nonhospital-based **substance use disorder**~~alcohol and other drug abuse~~ prevention, intervention, or treatment programs;
- (3) ~~["Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:~~
 - ~~(a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;~~
 - ~~(b) Use in situations which are potentially physically hazardous;~~
 - ~~(c) Loss of control over the use of alcohol or other drugs or both; and~~

- ~~(d)~~ Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both;
- ~~(4)~~ "Cabinet" means the Cabinet for Health and Family Services;
- ~~(4)~~~~(5)~~ "Director" means the director of the Division of Behavioral Health of the Department for Behavioral Health, Developmental and Intellectual Disabilities;
- ~~(5)~~~~(6)~~ "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical;
- ~~(6)~~~~(7)~~ "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function;
- ~~(8)~~ "Juvenile" means any person who is under the age of eighteen ~~(18)~~;
- ~~(7)~~~~(9)~~ "Narcotic treatment program" means a substance *use disorder*~~abuse~~ program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group;
- ~~(8)~~~~(10)~~ "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900;
- ~~(9)~~~~(11)~~ "Patient" means any person admitted to a hospital or a licensed *substance use disorder*~~alcohol and other drug abuse~~ treatment program;
- ~~(10)~~~~(12)~~ "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating *substance use disorder*~~alcohol and other drug abuse~~ problems;
- ~~(11)~~~~(13)~~ "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (12) *"Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems. Criteria for substance use disorder are in the most current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.*
- ~~(13)~~~~(14)~~ "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from *substance use disorder*~~alcohol and other drug abuse~~. "Treatment" includes those services provided by the cabinet in KRS 222.211 and, in KRS 222.430 to 222.437, it specifically includes the services described in KRS 222.211(1)(c) and (d); and
- ~~(14)~~~~(15)~~ "Qualified health professional" has the same meaning as qualified mental health professional in KRS 202A.011, except that it also includes an alcohol and drug counselor licensed or certified under KRS Chapter 309.

➔Section 11. KRS 222.211 is amended to read as follows:

- (1) The cabinet shall, in conjunction with the Office of Drug Control Policy and KY-ASAP and in furtherance of the strategic plan developed in KRS 15A.342, coordinate matters affecting *nicotine dependence*~~tobacco addiction~~ and *substance use disorder*~~alcohol and other drug abuse~~ in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for *individuals under age eighteen (18) years*~~both juveniles~~ and adults to address the problems of *nicotine dependence*~~tobacco addiction~~ and *substance use disorder*~~alcohol and other drug abuse~~ within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:
- (a) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of *nicotine dependence*~~tobacco addiction~~ and *substance use disorder*~~alcohol and other drug abuse~~ related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and

skills necessary to make healthy decisions regarding the use or nonuse of tobacco **and nicotine products**, alcohol, and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;

- (b) Intervention services for the purpose of identifying, motivating, and referring individuals in need of **nicotine dependence**~~{tobacco addiction}~~ and **substance use disorder**~~{alcohol and other drug abuse}~~ education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;
 - (c) **Withdrawal management**~~{Detoxification}~~ services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed **substance use disorder**~~{alcohol and other drug abuse}~~ program;
 - (d) **Substance use disorder treatment**~~{Rehabilitation}~~ services offered on an inpatient or outpatient basis for the purposes of treating an individual's **substance use disorder**~~{alcohol and other drug abuse problem}~~. The services shall be provided in a licensed **substance use disorder**~~{alcohol and other drug abuse}~~ program;
 - (e) Therapeutic services to family members **and significant others** of **individuals with a substance use disorder**~~{alcohol and other drug abusers}~~ for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an **individual with a substance use disorder**~~{alcohol or other drug abuser}~~. The services shall be offered primarily on ~~an~~**a** outpatient basis;
 - (f) Inpatient psychiatric services for those **individuals with a substance use disorder**~~{alcohol and other drug abusers}~~ whose diagnosis reflects both serious mental **illness**~~{health disturbances}~~ as well as **a substance use disorder**~~{alcohol and other drug abuse disorders}~~;
 - (g) Training programs for personnel working in the field of prevention, intervention, and treatment of **nicotine dependence**~~{tobacco addiction}~~ and **substance use disorders**~~{alcohol and other drug abuse problems}~~; and
 - (h) Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.
- (2) The cabinet shall comply with all policy recommendations of the Office of Drug Control Policy and KY-ASAP, and shall honor requests for information from the Office of Drug Control Policy created under KRS 15A.020.

➔Section 12. KRS 222.221 is amended to read as follows:

~~{(1)}~~The cabinet may:

- ~~{(1)}~~~~{(a)}~~ Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with government departments, public and private agencies and facilities, physicians, and other persons rendering services to **individuals with a substance use disorder**~~{alcohol and other drug abusers}~~. All rates shall be established in accordance with administrative regulations promulgated by the cabinet under KRS Chapter 13A. Income and resources of **individuals with a substance use disorder**~~{alcohol and other drug abusers}~~ to pay for services shall be taken into consideration to the fullest extent possible, and the cabinet shall be subrogated to any public or private third-party payments which may be due;
- ~~{(2)}~~~~{(b)}~~ Establish and operate facilities if adequate public and private resources are not available;
- ~~{(3)}~~~~{(c)}~~ Solicit and accept for use in relation to the purposes of this chapter any gift or bequest of money or property and any grant or loans of money, services, or property from the federal government, the Commonwealth or any political subdivision thereof. Any money received under this paragraph shall be deposited in the State Treasury to be kept in a separate fund which is hereby created, for expenditure by the cabinet in accordance with the conditions of the gift, bequest, loan, or grant without specific appropriations; and

~~(4)(d)~~ Promulgate administrative regulations pursuant to KRS Chapter 13A setting standards for the admission of patients to its facilities and set fees for treatment. Except as otherwise provided by law, all provisions of KRS Chapter 210 relating to charges and collection for treatment of *individuals with a mental illness*~~the mentally ill~~ shall apply to fees and collection of fees for treatment of *individuals with a substance use disorder*~~alcohol and other drug abusers~~.

~~(2) The cabinet shall prepare and publish annually a directory of all alcohol and other drug abuse facilities and services available in the Commonwealth. This directory shall be made available upon request.~~

➔Section 13. KRS 222.231 is amended to read as follows:

- (1) The cabinet shall issue for a term of one (1) year, and may renew for like terms, a license, subject to revocation by it for cause, to any persons, other than *a substance use disorder*~~an alcohol and other drug abuse~~ program that has been issued a license by the cabinet entitled "Chemical Dependency Treatment Services" pursuant to KRS ~~216B.042~~~~[216B-105]~~ or a department, agency, or institution of the federal government, deemed by it to be responsible and suitable to establish and maintain a program and to meet applicable licensure standards and requirements.
- (2) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing requirements and standards for licensing agencies and approving programs. The requirements and standards shall include:
 - (a) The health and safety standards to be met by a facility housing a program;
 - (b) Patient care standards and minimum operating, training, and maintenance of patient records standards;
 - (c) Licensing fees, application, renewal and revocation procedures, and the procedures for evaluation of the *substance use disorder*~~alcohol and other drug abuse~~ programs; and
 - (d) Classification of *substance use disorder*~~alcohol and other drug abuse~~ programs according to type, range of services, and level of care provided.
- (3) The cabinet may establish different requirements and standards for different kinds of programs, and may impose stricter requirements and standards in contracts with agencies made pursuant to KRS 222.221.
- (4) Each agency shall be individually licensed or approved.
- (5) Each agency shall file with the cabinet from time to time, the data, statistics, schedules, or information the cabinet may reasonably require for the purposes of this section.
- (6)
 - (a) The cabinet shall have authority to deny, revoke, *or* modify~~, or suspend~~ a license in any case in which it finds that there has been a substantial failure to comply with the provisions of this chapter or the administrative regulations promulgated thereunder. The denial, revocation, *or* modification~~, or suspension~~ shall be effected by *providing*~~(mailing)~~ to the applicant or licensee, by certified mail *or other method of delivery, which may include electronic service*, a notice setting forth the particular reasons for the action. The denial, revocation, *or* modification~~, or suspension~~ shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within this thirty (30) day period, ~~files~~~~shall file~~ a request in writing for a hearing before the cabinet.
 - (b) *If the cabinet has probable cause to believe that there is an immediate threat to public health, safety, or welfare, the cabinet may issue an emergency order to suspend the license. The emergency order to suspend the license shall be provided to the licensee, by certified mail or other method delivery, which may include electronic service, a notice setting forth the particular reasons for the action.*
- (7) *Any person required to comply with an emergency order issued under subsection (6) of this section may request an emergency hearing within five (5) calendar days of receipt of the notice to determine the propriety of the order. The cabinet shall conduct an emergency hearing within ten (10) working days of the request for a hearing. Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the emergency order. The emergency order shall be affirmed if there is substantial evidence of a violation of law that constitutes an immediate danger to public health, safety, or welfare. The decision rendered by the hearing officer shall be a final order of the cabinet on the matter, and any party aggrieved by the decision may appeal to the Franklin Circuit Court.*
- (8) *If the cabinet issues an emergency order, the cabinet shall take action to revoke the facility's license if:*

- (a) *The facility fails to submit a written request for an emergency hearing within five (5) calendar days of receipt of the notice; or*
 - (b) *The decision rendered under subsection (7) of this section affirms that there is substantial evidence of an immediate danger to public health, safety, or welfare.*
- (9) (a) The cabinet, after holding a hearing conducted by a hearing officer appointed by the secretary and conducted in accordance with KRS Chapter 13B, may refuse to grant, suspend, revoke, limit, or restrict the applicability of or refuse to renew any agency license or approval of programs for any failure to meet the requirements of its administrative regulations or standards concerning a licensed agency and its program.
- (b) *Within five (5) working days of completion of a hearing on an emergency suspension or within thirty (30) calendar days from the conclusion of a hearing on the denial, revocation or modification of a license, the findings and recommendations of the hearing officer shall be transmitted to the cabinet, with a synopsis of the evidence contained in the record and a statement of the basis of the hearing officer's findings.*
- (c) A petition for judicial review shall be made to the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (10)~~(8)~~ No person, excepting *a substance use disorder*~~[an alcohol and other drug abuse]~~ program that has been issued a license by the cabinet entitled "Chemical Dependency Treatment Services" pursuant to KRS ~~216B.042~~~~[216B.105]~~ or a department, agency, or institution of the federal government, shall operate a program without a license pursuant to this section.
- (11)~~(9)~~ Each program operated by a licensed agency shall be subject to visitation and inspection by the cabinet and the cabinet shall inspect each agency prior to granting or renewing a license. The cabinet may examine the books and accounts of any program if it deems the examination necessary for the purposes of this section.
- (12)~~(10)~~ The director may require agencies *that*~~[which]~~ contract with the Commonwealth pursuant to KRS 222.221 to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter, subject to service and bed availability and medical necessity.
- (13)~~(11)~~ The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the extent to which programs may be required to treat any person on an inpatient or outpatient basis pursuant to this chapter, except that no licensed hospital with an emergency service shall refuse any person suffering from acute alcohol or other drug intoxication or severe withdrawal syndrome from emergency medical care.
- (14)~~(12)~~ All narcotic treatment programs shall be licensed under this section prior to operation. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish additional standards of operation for narcotic treatment programs. The administrative regulations shall include minimum requirements in the following areas:
- (a) Compliance with relevant local ordinances and zoning requirements;
 - (b) Submission of a plan of operation~~[-, including memoranda of agreement which reflect supportive services from local hospitals, law enforcement agencies, correctional facilities, community agencies for mental health or individuals with an intellectual disability, and other alcohol and drug abuse services in the community];~~
 - (c) Criminal records checks for employees of the narcotic treatment program~~[-. Narcotic treatment programs shall not employ any person convicted of a crime involving a controlled substance as defined in KRS Chapter 218A];~~
 - (d) Conditions under which clients are permitted to take home doses of medications;
 - (e) *Drug*~~[Urine]~~ screening requirements;
 - (f) Quality assurance procedures;
 - (g) Program *director*~~[sponsor]~~ requirements;
 - (h) Qualifications for the medical director for a narcotic treatment program, who at a minimum shall:
 1. ~~[Be a licensed physician pursuant to KRS Chapter 311 and function autonomously within the narcotic treatment program; and~~

~~2.~~ Be a board eligible psychiatrist licensed to practice in Kentucky and have three (3) years' documented experience in the provision of services to **individuals with a substance use disorder**~~[persons who are addicted to alcohol or other drugs]~~; or

~~2.3.~~ Be a physician licensed **to practice in Kentucky**~~[pursuant to KRS Chapter 311]~~ and **be board certified as an addiction medicine specialist**~~[addictionologist by the American Society of Addiction Medicine]~~.

- (i) Security and control of narcotics and medications;
- (j) Program admissions standards;
- (k) Treatment protocols;
- (l) Treatment compliance requirements for program clients;
- (m) Rights of clients; and
- (n) Monitoring of narcotic treatment programs by the cabinet.

➔Section 14. KRS 222.271 is amended to read as follows:

- (1) The administrator of each program shall keep a record of the treatment afforded each **substance use disorder**~~[alcohol and other drug abuse]~~ patient, which shall be confidential in accordance with administrative regulations promulgated by the cabinet.
- (2) Any patient may have a physician retained by him examine him, consult privately with his attorney, receive visitors, and send and receive communications by mail, telephone, and telegraph. The communications shall not be censored or read without consent of the patient. The right of the administrator, subject to administrative regulations of the cabinet, to prescribe reasonable rules governing visitation rights, use of the mail, and telephone and telegraph facilities shall not be limited.

➔Section 15. KRS 222.311 is amended to read as follows:

- (1) No hospital shall deny treatment to a person solely because of his **or her substance use disorder**~~[alcohol and other drug abuse]~~.
- (2) Any intoxicated person admitted to a licensed **substance use disorder**~~[alcohol and other drug abuse]~~ program or a hospital licensed to provide chemical dependency treatment or detoxification services, shall receive treatment at the program or hospital for as long as the person wishes to remain, or until benefits expire, or the administrator determines that treatment will no longer benefit the person.

➔Section 16. KRS 222.421 is amended to read as follows:

- (1) Any person may request treatment from a physician or **substance use disorder**~~[alcohol and other drug abuse]~~ program licensed or approved by the cabinet to provide **substance use disorder**~~[alcohol and other drug abuse]~~ treatment services. Persons infected with HIV, hepatitis B, or hepatitis C shall have priority access to any licensed treatment services.
- (2) Every **substance use disorder**~~[alcohol and other drug abuse]~~ program that provides intervention or treatment services to a person with **a substance use disorder**~~[an alcohol and other drug abuse problem]~~ or prevention programming to any persons in the community shall, upon request of the cabinet, make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided prevention, intervention, and treatment services during a specified period of time. The name or address of any person to whom prevention, intervention, or treatment services were provided shall not be reported. The secretary shall provide compilations of the statistical information to other appropriate agencies upon request.

➔Section 17. KRS 222.430 is amended to read as follows:

- (1) Involuntary treatment ordered for a person suffering from **substance use disorder**~~[alcohol and other drug abuse]~~ shall follow the procedures set forth in KRS 222.430 to 222.437.
- (2) Except as otherwise provided for in KRS 222.430 to 222.437, all rights guaranteed by KRS Chapters 202A and 210 to involuntarily hospitalized mentally ill persons shall be guaranteed to a person ordered to undergo treatment for **substance use disorder**~~[alcohol and other drug abuse]~~.

➔Section 18. KRS 222.431 is amended to read as follows:

No person suffering from *substance use disorder*~~[alcohol and other drug abuse]~~ shall be ordered to undergo treatment unless that person:

- (1) Suffers from *substance use disorder*~~[alcohol and other drug abuse]~~;
- (2) Presents an imminent threat of danger to self, family, or others as a result of *a substance use disorder*~~[alcohol and other drug abuse]~~, or there exists a substantial likelihood of such a threat in the near future; and
- (3) Can reasonably benefit from treatment.

➔Section 19. KRS 222.432 is amended to read as follows:

- (1) Proceedings for sixty (60) days or three hundred sixty (360) days of treatment for an individual suffering from *substance use disorder*~~[alcohol and other drug abuse]~~ shall be initiated by the filing of a verified petition in District Court.
- (2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."
- (3) The petition shall be filed by a spouse, relative, friend, or guardian of the individual concerning whom the petition is filed.
- (4) The petition shall set forth:
 - (a) Petitioner's relationship to the respondent;
 - (b) Respondent's name, residence, and current location, if known;
 - (c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;
 - (d) The name and residence of respondent's husband or wife, if any and if known;
 - (e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that the person is unknown; and
 - (f) Petitioner's belief, including the factual basis therefor, that the respondent is suffering from an alcohol and other drug abuse disorder and presents a danger or threat of danger to self, family, or others if not treated for *substance use disorder*~~[alcohol or other drug abuse]~~.

Any petition filed pursuant to this subsection shall be accompanied by a guarantee, signed by the petitioner or other person authorized under subsection (3) of this section, obligating that person to pay all costs for treatment of the respondent for *substance use disorder*~~[alcohol and other drug abuse]~~ that is ordered by the court.

➔Section 20. KRS 222.433 is amended to read as follows:

- (1) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.
- (2) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:
 - (a) Set a date for a hearing within fourteen (14) days to determine if there is probable cause to believe the respondent should be ordered to undergo treatment for *a substance use disorder*~~[alcohol and other drug abuse]~~;
 - (b) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and
 - (c) Cause the respondent to be examined no later than twenty-four (24) hours before the hearing date by two (2) qualified health professionals, at least one (1) of whom is a physician. The qualified health professionals shall certify their findings to the court within twenty-four (24) hours of the examinations.
- (3) If, upon completion of the hearing, the court finds the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition or otherwise agreed to at the hearing.

Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.

- (4) If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed.

➔Section 21. KRS 222.434 is amended to read as follows:

- (1) Following an examination by a qualified health professional and a certification by that professional that the person meets the criteria specified in KRS 222.431, the court may order the person hospitalized for a period not to exceed seventy-two (72) hours if the court finds, by clear and convincing evidence, that the respondent presents an imminent threat of danger to self, family, or others as a result of **a substance use disorder**~~[alcohol and other drug abuse]~~.
- (2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours of admittance.
- (3) No respondent ordered hospitalized under this section shall be held in jail pending transportation to the hospital or evaluation unless the court has previously found the respondent to be in contempt of court for either failure to undergo treatment or failure to appear at the evaluation ordered pursuant to KRS 222.433.

➔Section 22. KRS 222.435 is amended to read as follows:

When the court is authorized to issue an order that the respondent be transported to a hospital, the court may, or if the respondent fails to attend an examination scheduled before the hearing provided for in KRS 222.433 then the court shall, issue a summons. A summons so issued shall be directed to the respondent and shall command the respondent to appear at a time and place therein specified. If a respondent who has been summoned fails to appear at the hospital or the examination, then the court may order the sheriff or other peace officer to transport the respondent to a hospital or psychiatric facility designated by the cabinet for treatment under KRS 210.485. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the respondent to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be included in the costs of treatment for **a substance use disorder**~~[alcohol and other drug abuse]~~ to be paid by the petitioner.

➔Section 23. KRS 222.441 is amended to read as follows:

- (1) Notwithstanding any other law, a minor who suffers from **a substance use disorder**~~[an alcohol and other drug abuse problem]~~ or emotional disturbance from the effects of a family member or legal guardian's **substance use disorder**~~[alcohol and other drug abuse problem]~~ or the parent or guardian of the minor may give consent to the furnishing of medical care or counseling related to the assessment or treatment of the conditions. The consent of the minor shall be valid as if the minor had achieved majority. No person or facility shall incur liability by reason of having made a diagnostic examination or rendered treatment as provided in this section, but the immunity shall not apply to any negligent acts or omissions.
- (2) A minor hospitalized or treated without the minor's consent but with the consent of the parent or guardian may petition the District Court to determine whether the minor is suffering from **a substance use disorder**~~[alcohol or drug abuse or addiction]~~ and whether the treatment is necessary for the health and welfare of the minor.

➔Section 24. KRS 222.460 is amended to read as follows:

- (1) As a requirement to receive state or federal funds, including Medicaid, a treatment center or program licensed as a chemical dependency treatment service pursuant to KRS **216B.042**~~[216B.105]~~ or this chapter shall participate in an evaluation or client-outcome effectiveness study conducted by the cabinet.
- (2) Information for the evaluation shall include, but is not limited to, the following:
- The total number of **substance use disorder**~~[alcohol and drug abuse]~~ clients admitted to treatment;
 - The total number of referrals from the District and Circuit Courts and the Department of Corrections;
 - The client's change in **substance use**~~[alcohol and other drug use]~~ patterns from admission to discharge from treatment;
 - The client's change in employment status from admission to discharge from treatment; and
 - The client's change in involvement with the criminal justice system from admission to discharge from treatment.

- (3) All information collected pursuant to this chapter shall be held confidential with respect to the identity of individual clients. Access to information that identifies individual clients may be provided to qualified persons or organizations with a valid scientific interest, as determined by the secretary, who are engaged in research related to patterns of drug and alcohol use, the effectiveness of treatment, or similar studies and who agree in writing to maintain confidentiality.

➔Section 25. KRS 222.465 is amended to read as follows:

- (1) All inpatient, residential, or outpatient treatment centers or programs licensed as a chemical dependency treatment service pursuant to KRS ~~216B.042~~~~[216B.105]~~ or this chapter and receiving state or federal funds, shall participate in a client-outcome study conducted by the cabinet. This scientifically-conducted client-oriented evaluation study shall measure the relative change in a client as a result of the client's participation in specific treatment modalities. The client-outcome study shall measure the client's length of stay in each treatment modality and the client's change in behavior one (1) year after being discharged from a treatment program.
- (2) Follow-up reports on a scientifically-based sample of clients discharged from chemical dependency treatment programs shall be gathered by an independent organization qualified to conduct outcome evaluation and submitted to the cabinet in a format to be determined by administrative regulations of the cabinet. The follow-up report shall measure the client's current *substance use*~~[alcohol or drug use]~~ patterns, employment status, educational status, and involvement in the criminal justice system. Follow-up reports may be conducted through telephone or mail surveys of clients and the cost of reports shall be borne by the cabinet.
- (3) Clients who refuse to participate in the follow-up report or who cannot reasonably be located shall be noted in the follow-up report.

➔Section 26. KRS 304.17A-660 is amended to read as follows:

As used in KRS 304.17A-660 to 304.17A-669, unless the context requires otherwise:

- (1) "Mental health condition" means any condition or disorder that involves mental illness or *substance use disorder*~~[alcohol and other drug abuse]~~ as defined in KRS 222.005 and that falls under any of the diagnostic categories listed in the Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition) or that is listed in the mental disorders section of the international classification of disease, or the most recent subsequent editions;
- (2) "Terms or conditions" includes day or visit limits, episodes of care, any lifetime or annual payment limits, deductibles, copayments, prescription coverage, coinsurance, out-of-pocket limits, and any other cost-sharing requirements; and
- (3) "Treatment of a mental health condition" includes, but is not limited to, any necessary outpatient, inpatient, residential, partial hospitalization, day treatment, emergency detoxification, or crisis stabilization services.

➔Section 27. KRS 311B.160 is amended to read as follows:

The board may deny, revoke, or suspend the license of an individual who:

- (1) Has engaged in conduct relating to his or her profession that is likely to deceive, defraud, or harm the public;
- (2) Has *a substance use disorder that impairs the individual's ability to perform his or her duties*~~[engaged in alcohol and other drug abuse as defined in KRS 222.005];~~
- (3) Develops a physical or mental disability or other condition that makes continued practice or performance of his or her duties potentially dangerous to patients or the public;
- (4) Performs procedures under or represents as valid to any person a license:
- (a) Not issued by the board;
 - (b) Containing unauthorized alterations; or
 - (c) Containing changes that are inconsistent with board records regarding its issuance;
- (5) Has been convicted of a crime that is a felony under the laws of this state or convicted of a felony in a federal court, unless the individual has had all civil rights restored, if in accordance with KRS Chapter 335B;
- (6) Exhibits significant or repeated failure in the performance of professional duties; or

(7) Fails to comply with any administrative regulation of the board.

➔Section 28. 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 **a substance use disorder**~~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; or
 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) cumulative months out of forty-eight (48) 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) "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) "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) "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) "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) "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) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (36) "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) "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) "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) "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) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (42) "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) "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) "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) "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) "Parent" means the biological or adoptive mother or father of a child;
- (47) "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) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (49) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (50) "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) "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) "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;
 - (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; or
 - (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:
 - 1. Provides documentation that he or she has completed a psychiatric residency program for physician assistants;
 - 2. Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840, who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;
 - 3. Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840, and:
 - a. Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or
 - b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or
 - 4. Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:
 - a. Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or
 - b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;
- (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);
- (54) "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) "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) "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) "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;

- (59) "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) "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) "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) "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) "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) "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) (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) "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) "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) "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) "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) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;
- (71) "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) "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 29. KRS 610.127 is amended to read as follows:

Reasonable efforts as defined in KRS 620.020 shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction determines that the parent has:

- (1) Subjected the child to aggravated circumstances as defined in KRS 600.020;
- (2) Been convicted in a criminal proceeding of having caused or contributed to the death of another child of the parent;
- (3) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent;
- (4) Had their parental rights to another child terminated involuntarily;
- (5) Engaged in a pattern of conduct due to **a substance use disorder**~~{alcohol or other drug abuse}~~ as defined in KRS 222.005 for a period of not less than ninety (90) days that has rendered the parent incapable of caring for the immediate and ongoing needs of the child, and the parent has refused or failed to complete available treatment for alcohol or other drug abuse;
- (6) Mental illness as defined in KRS 202A.011 or is an individual with an intellectual disability as defined in KRS 202B.010 or other developmental disability as defined in KRS 387.510 that places the child at substantial risk of physical or emotional injury even if the most appropriate and available services were provided to the parent for twelve (12) months;
- (7) Sexually abused the child or is required to register on a sex offender registry under 42 U.S.C. sec. 16913, the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248; or
- (8) Other circumstances in existence that make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the best interests of the child and with the permanency plan for the child.

➔Section 30. KRS 620.023 is amended to read as follows:

- (1) Evidence of the following circumstances if relevant shall be considered by the court in all proceedings conducted pursuant to KRS Chapter 620 in which the court is required to render decisions in the best interest of the child:
 - (a) Mental illness as defined in KRS 202A.011 or an intellectual disability as defined in KRS 202B.010 of the parent, as attested to by a qualified mental health professional, which renders the parent unable to care for the immediate and ongoing needs of the child;
 - (b) Acts of abuse or neglect as defined in KRS 600.020 toward any child;
 - (c) **Substance use disorder**~~{Alcohol and other drug abuse}~~, as defined in KRS 222.005, that results in an incapacity by the parent or caretaker to provide essential care and protection for the child;
 - (d) A finding of domestic violence and abuse as defined in KRS 403.720, whether or not committed in the presence of the child;
 - (e) Any other crime committed by a parent which results in the death or permanent physical or mental disability of a member of that parent's family or household; and
 - (f) The existence of any guardianship or conservatorship of the parent pursuant to a determination of disability or partial disability as made under KRS 387.500 to 387.770 and 387.990.
- (2) In determining the best interest of the child, the court may consider the effectiveness of rehabilitative efforts made by the parent or caretaker intended to address circumstances in this section.

➔ Section 31. The following KRS sections are repealed:

222.001 Chapter title.

210.500 Legislative findings on planning for mental health and substance abuse services.

210.502 Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

210.504 Commission meetings -- Duties -- Development of comprehensive state plan.

210.580 Joint ad hoc committee on transitioning from children's services systems to adult services systems -- Membership -- Duties -- Report.

Signed by Governor March 26, 2019.