

## CHAPTER 132

( HB 446 )

AN ACT relating to child welfare.

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

➔Section 1. KRS 620.140 is amended to read as follows:

- (1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:
- (a) Informal adjustment of the case;
  - (b) Protective orders, such as the following:
    1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;
    2. Placing the child in his *or her* own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and
    3. Orders authorized by KRS 403.715 to 403.785 and by KRS Chapter 456;
  - (c) Removal of the child to the custody of an adult relative, fictive kin, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his *or her* home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child. ***If a child is to be placed with an adult relative or fictive kin the parent or other person exercising custodial control or supervision shall provide a list to the cabinet of possible persons to be considered;***
  - (d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or
  - (e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining nineteen (19) years of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).
- (2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

➔Section 2. KRS 620.290 is amended to read as follows:

~~{(1)}~~—The local citizen foster care review board shall submit to the court within fourteen (14) days of the six (6) month review its findings and recommendations. The findings and recommendations for each child under review shall include but need not be limited to:

- ~~(1){(a)}~~ Whether there is a plan for permanence;
- ~~(2){(b)}~~ Whether the plan is progressing;~~{and}~~
- ~~(3){(e)}~~ The appropriateness of the current placement or plan for permanence. If the local foster care review board determines that a current placement or plan for permanence is inappropriate, a notification shall be provided to the court, and the cabinet which shall summarize the position of the local foster care review board, the response of the cabinet, if any, to the concerns expressed by the local foster care review board, and any action proposed by the local foster care review board; ***and***

- (4) *The number of moves that have occurred during the child's placement into out-of-home care, including whether the child has moved three (3) or more times within a six (6) month period.*

~~{(2) The local foster care review board shall submit to the court, with a copy to the cabinet, within fourteen (14) days of each meeting of the board, a list of each case reviewed in which a child has been moved three (3) or more times within a six (6) month period. The list shall include the name of the case, the court number, if available, the cabinet case number, the age, sex, and race of the child, and the number of moves that have occurred.}~~

➔Section 3. KRS 620.320 is amended to read as follows:

The duties of the State Citizen Foster Care Review Board shall be to:

- (1) Establish, approve, and provide training programs for local citizen foster care review board members;
- (2) Review and coordinate the activities of local citizen foster care review boards;
- (3) Establish reporting procedures to be followed by the local citizen foster care review boards and publish an annual written report compiling data reported by local foster care review boards which shall include statistics relating, at a minimum, to the following:
  - (a) *Barriers to permanency identified in reviews*~~{How the needs of children are being met};~~
  - (b) The number of *children moved more than three (3) times within a six (6) month period*~~{times children are moved and reasons for the moves};~~
  - (c) The average length of time in care;
  - (d) *Local solutions reported to meet identified barriers*~~{Sibling visitation};~~ and
  - (e) The total number and frequency of reviews;
- (4) Publish an annual written report on the effectiveness of such local citizen foster care review boards; and
- (5) Evaluate and make annual recommendations to the Supreme Court, Governor, and the Child Welfare Oversight and Advisory Committee established in KRS 6.943 regarding:
  - (a) Laws of the Commonwealth;
  - (b) Practices, policies, and procedures within the Commonwealth affecting permanence for children in out-of-home placement and the investigation of allegations of abuse and neglect;
  - (c) The findings of the local citizen foster care review board community forums conducted pursuant to KRS 620.270; and
  - (d) The effectiveness or lack thereof and reasons therefor of local citizen foster care review of children in the custody of the cabinet in bringing about permanence for the Commonwealth's children.

➔Section 4. KRS 620.360 is amended to read as follows:

- (1) Persons who provide foster care services to children who have been committed to the custody of the state shall be considered a primary partner and member of a professional team caring for foster children. Foster parents shall have the following rights:
  - (a) To be treated with respect, consideration, and dignity;
  - (b) To fully understand the role of the cabinet and the role of other members of the child's professional team;
  - (c) To receive information and training about foster parents' rights, responsibilities, and access to local and statewide support groups, including but not limited to the Kentucky Foster/Adoptive Care Association, the Kentucky Foster and Adoptive Parent Network, and Adoption Support of Kentucky;
  - (d) To receive information and training to improve skills in the daily care and in meeting the special needs of foster children;
  - (e) To receive timely and adequate financial reimbursement for knowledgeable and quality care of a child in foster care within budgetary limitations;
  - (f) To maintain the foster family's own routines and values while respecting the rights and confidentiality of each foster child placed in their home;

- (g) To receive a period of respite from providing foster care, pursuant to cabinet policies;
  - (h) To receive, upon an open records request, a copy of all information contained in the cabinet's records about the family's foster home and the foster care services provided by the family consistent with KRS 605.160;
  - (i) To access cabinet support and assistance as necessary twenty-four (24) hours per day, seven (7) days per week;
  - (j) To receive, prior to a child being placed in the foster home pursuant to KRS 605.090, information relating to the child's behavior, family background, or health history that may jeopardize the health or safety of any member of the foster family's household, including other foster children, and similar information that may affect the manner in which foster care services are provided, consistent with KRS 605.160. In an emergency situation, the cabinet shall provide information as soon as it is available;
  - (k) To refuse placement of a child within the foster home and to request, with reasonable notice to the cabinet, the removal of a child from the foster home without fear of reprisal;
  - (l) To communicate, with an appropriate release of information consistent with KRS 605.160, with other professionals who work directly with the foster child, including but not limited to teachers, therapists, and health care practitioners and to notify the cabinet within twenty-four (24) hours of the communication;
  - (m) To assist the cabinet in the development of the child's plan of care;
  - (n) To receive an explanatory notice from the cabinet, consistent with KRS 620.130 and when it is in the best interest of the child, when a foster child's case plan has changed and, except in an immediate response to a child protective services investigation involving the foster home, an explanatory notice of termination or change in placement affecting the foster home within fourteen (14) days of the change or termination in placement;
  - (o) To have priority consideration for placement if a child who has previously been placed in the foster home reenters foster care, consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child;
  - (p) To have priority consideration for adoption if a foster child who has been placed in the foster home for a period of at least twelve (12) consecutive months becomes eligible for adoption consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child;
  - (q) To maintain contact with the foster child after the child leaves the foster home, unless the child, a biological parent, the cabinet when the cabinet retains custody of the child, or other foster or adoptive parent refuses such contact; and
  - (r) To receive notice of, have a right to attend, and have a right to be heard in, either verbally or in writing, any cabinet or court proceeding held with respect to the child. This paragraph shall not be construed to require that a foster parent caring for the child be made a party to a proceeding solely on the basis of the notice and rights to attend and be heard.
- (2) The responsibilities of foster parents shall include but not be limited to the following:
- (a) To maintain an orderly and clean home;
  - (b) To ensure that the child has adequate resources for personal hygiene and clothing;
  - (c) To provide recreational and spiritual opportunities for the child, in accordance with cabinet policies;
  - (d) To attend all school and case planning meetings involving a foster child placed in their home whenever possible, subject to KRS 620.130 and the confidentiality requirements of 42 U.S.C. sec. 671;
  - (e) To abide by cabinet policies relating to discipline of a foster child; and
  - (f) To support the involvement of a foster child's biological family whenever possible and in accordance with cabinet policies.
- (3) The cabinet shall provide specific training on investigations of alleged child abuse or neglect in a foster home to a person appointed by the Kentucky Foster/Adoptive Care Association. The training shall include the rights of a foster parent during an investigation. Training shall be consistent with 42 U.S.C. sec. 5106(a).

- (4) *The cabinet shall promulgate administrative regulations to establish that foster parent approval shall be effective for a minimum of three (3) years before reevaluation is required.*
- (5) Nothing in this section shall be construed to establish monetary liability of or cause of action against the cabinet.

➔Section 5. KRS 625.060 is amended to read as follows:

- (1) In addition to the child, the following shall be the parties in an action for involuntary termination of parental rights:
- (a) The petitioner;
  - (b) The cabinet, if not the petitioner;~~and~~
  - (c) The biological parents, if known and if their rights have not been previously terminated. It shall not be necessary to make the putative father a party if he is exempted by KRS 625.065; *and*
  - (d) *A foster parent of a child who is currently placed with the foster parent, and the child is part of the involuntary termination of parental rights action that is related to an allegation of dependency, neglect, or abuse pursuant to KRS Chapter 620, unless the judge determines this involvement is inappropriate.*
- (2) Any party other than the child who is not the petitioner shall be a respondent.

➔Section 6. KRS 625.090 is amended to read as follows:

- (1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the pleadings and by clear and convincing evidence that:
- (a)
    1. The child has been adjudged to be an abused or neglected child, as defined in KRS 600.020(1), by a court of competent jurisdiction;
    2. The child is found to be an abused or neglected child, as defined in KRS 600.020(1), by the Circuit Court in this proceeding;
    3. The child is found to have been diagnosed with neonatal abstinence syndrome at the time of birth, unless his or her birth mother:
      - a. Was prescribed and properly using medication for a legitimate medical condition as directed by a health care practitioner that may have led to the neonatal abstinence syndrome; or
      - b. Is currently, or within ninety (90) days after the birth, enrolled in and maintaining substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care or postnatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy or the appropriate time after her pregnancy;~~or~~
    4. The parent has been convicted of a criminal charge relating to the physical or sexual abuse or neglect of any child and that physical or sexual abuse, neglect, or emotional injury to the child named in the present termination action is likely to occur if the parental rights are not terminated;
  - (b) The Cabinet for Health and Family Services has filed a petition with the court pursuant to KRS 620.180; and
  - (c) Termination would be in the best interest of the child.
- (2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:
- (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
  - (b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;
  - (c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

- (d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to any child;
  - (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
  - (f) That the parent has caused or allowed the child to be sexually abused or exploited;
  - (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;
  - (h) That:
    - 1. The parent's parental rights to another child have been involuntarily terminated;
    - 2. The child named in the present termination action was born subsequent to or during the pendency of the previous termination; and
    - 3. The conditions or factors which were the basis for the previous termination finding have not been corrected;
  - (i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect;~~for~~
  - (j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) cumulative months out of forty-eight (48) months preceding the filing of the petition to terminate parental rights; **or**
  - (k) ***That the child has been removed from the biological or legal parents more than two (2) times in a twenty-four (24) month period by the cabinet or a court.***
- (3) In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:
- (a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as defined by KRS 202B.010(9) of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;
  - (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the family;
  - (c) If the child has been placed with the cabinet, whether the cabinet has, prior to the filing of the petition made reasonable efforts as defined in KRS 620.020 to reunite the child with the parents unless one or more of the circumstances enumerated in KRS 610.127 for not requiring reasonable efforts have been substantiated in a written finding by the District Court;
  - (d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;
  - (e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and
  - (f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.
- (4) If the child has been placed with the cabinet, the parent may present testimony concerning the reunification services offered by the cabinet and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent.
- (5) If the parent proves by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent the court in its discretion may determine not to terminate parental rights.

- (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision as to each parent-respondent within thirty (30) days either:
- (a) Terminating the right of the parent; or
  - (b) Dismissing the petition and stating whether the child shall be returned to the parent or shall remain in the custody of the state.

**Signed by Governor March 26, 2019.**