

CHAPTER 64**(HB 312)**

AN ACT relating to children.

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

➔Section 1. KRS 158.448 is amended to read as follows:

The Kentucky Department of Education shall develop protocols for student records within the student information system which:

- (1) Provide notice to schools receiving the records of prior offenses described in KRS 610.345 committed by a student transferring to a new school or district;~~and~~
- (2) *Promote expeditious enrollment and placement of students in foster care who are transferring to a new school or district, in accordance with the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95;*
- (3) *Promote the sharing of information regarding students in foster care among schools, districts, the Cabinet for Health and Family Services, and a child's caseworker, pursuant to applicable law; and*
- (4) Protect the privacy rights of students and parents guaranteed under the federal Family Educational Rights and Privacy Act.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

In accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, when a statute within this chapter refers to the release of educational records, the purpose of the release shall be limited to providing the department with the ability to effectively serve the needs of the child whose records are sought, and any educational records shall only be released to persons authorized by statute and shall not be released to any other person without the written consent of the parent of the child.

➔Section 3. KRS 199.640 is amended to read as follows:

- (1) Any facility or agency seeking to conduct, operate, or maintain any child-caring facility or child-placing agency shall first obtain a license to conduct, operate, or maintain the facility or agency from the cabinet.
- (2) The cabinet shall:
 - (a) Develop standards, as provided in subsection (5) of this section, which must be met by any facility or agency seeking to be licensed to conduct, operate, or maintain a child-caring facility or child-placing agency;
 - (b) Issue licenses to any facility or agency found to meet established standards and revoke or suspend a license after a hearing in any case that a facility or agency holding a license is determined to have substantially failed to conform to the requirements of the standards;
 - (c) Establish and follow procedures designed to ~~ensure~~~~insure~~ that any facility or agency licensed to conduct, operate, or maintain a child-caring facility or child-placing agency complies with the requirements of the standards on an ongoing basis.
- (3) Licenses shall be issued for a period of one (1) year from date of issue unless revoked by the cabinet. Each licensed facility or agency shall be visited and inspected at least one (1) time each year by a person authorized by the cabinet and meeting specific qualifications established by the secretary of the cabinet in an administrative regulation. A complete report of the visit and inspection shall be filed with the cabinet.
- (4) Each license issued shall specify the type of care or service the licensee is authorized to perform. The cabinet may promulgate administrative regulations to establish fees that shall not exceed costs of the program to the cabinet, for the proper administration of licensure. The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.
- (5) (a) The secretary shall promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies relating to the health and safety of all children in the care of the facility or agency, the basic components for a quality program, as referenced

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below, and any other factors as may be necessary to promote the welfare of children cared for or placed by the agencies and facilities. Standards established may vary depending on the capacity of the agency or facility seeking licensure. These administrative regulations shall establish standards that ~~ensure~~~~insure~~ that:

1. The treatment program offered by the facility or agency is directed toward child safety, improved child functioning, improved family functioning, and continuity and permanence for the child;
 2. The facility or agency has on staff, or has contracted with, individuals who are qualified to meet the treatment needs of the children being served, including their psychological and psychiatric needs;
 3. The facility or agency has procedures in place to ~~ensure~~~~insure~~ that its staff receives ongoing training and that all staff members who are required to do so meet all regional and national standards;
 4. The facility or agency develops an integrated, outcomes-based treatment plan that meets the health, mental health, education, safety, and security needs of each child in its care;
 5. The facility or agency has procedures in place to include parents, family, and other caregivers in a child's treatment program;
 6. The facility or agency has procedures in place whereby it evaluates its programs on a quarterly basis and documents changes in the program if the results of the review indicate a change is needed;
 7. The facility or agency makes available quality programs for substance abuse prevention and treatment with providers licensed under KRS Chapter 222 as part of its treatment services;
 8. The facility or agency initiates discharge planning at admission and provides sufficient aftercare; and
 9. The facility or agency has **written policies and** procedures in place that outline the structure and objectives of cooperative relationships with the community within which it is located and the local school district, **including outreach activities to be undertaken by the facility or agency to both develop and maintain those cooperative relationships.**
- (b) The secretary shall promulgate administrative regulations establishing recordkeeping and reporting requirements and standards for licensed agencies and facilities that recognize the electronic storage and retrieval of information for those facilities that possess the necessary technology and that include, at a minimum, the following information relating to children in the care of the agency or facility:
1. The name, age, social security number, county of origin, and all former residences of the child;
 2. The names, residences, and occupations, if available, of the child's parents;
 3. The date on which the child was received by the agency or facility; the date on which the child was placed in a foster home or made available for adoption; and the name, occupation, and residence of any person with whom a child is placed; and
 4. A brief and continuing written narrative history of each child covering the period during which the child is in the care of the agency or facility.
- (c) The secretary may promulgate administrative regulations creating separate licensure standards for different types of facilities.
- (d) The secretary shall promulgate administrative regulations to establish practices and procedures for the inspection of child-caring facilities and child-placing agencies. These administrative regulations shall establish a uniform reporting mechanism that includes guidelines for enforcement.
- (6) Any administrative regulations promulgated pursuant to KRS Chapter 13A to govern services provided by church-related privately operated child-caring agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline, or behavior modification and shall prohibit the employment of persons convicted of any sexual offense with any child-caring facility or child-placing agency.
- (7) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as

similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection, except to authorized employees of:

- (a) The cabinet or of such licensed agency or facility in performance of their duties; *and*
- (b) *A school or local school district in which a child is enrolling or currently enrolled, in order to identify and serve the educational needs of the child, in accordance with Section 6 of this Act.*

➔Section 4. KRS 199.660 is amended to read as follows:

- (1) A licensed child-placing agency may place children in any licensed child-caring facility, including institutions and group homes, or in foster family homes under its direct supervision, in a facility certified by an appropriate agency as operated primarily for educational or medical purposes, or may place children for adoption if specifically authorized by its license to do so. The child-placing agency shall provide careful supervision of all children under its care and of children placed by it in child-caring facilities or foster family homes, and its agents shall visit such facilities or foster family homes as often as may be necessary to promote the welfare of the children.
- (2)
 - (a) *A licensed child-placing agency shall notify the department within fourteen (14) calendar days of the closure of a foster family home under its supervision for any reason, and shall state the reason for the closure.*
 - (b) *The department shall maintain a foster family home registry where this closure information, and closure information for all foster family homes closed by the cabinet, are stored.*
 - (c)
 - 1. *A licensed child-placing agency shall not approve a foster family home, and shall not place a child into any foster family home, until the child-placing agency first requests information from the department to determine if the prospective foster family home is listed in the registry, if the foster family home has ever been closed, and the reason for closure.*
 - 2. *A licensed child-placing agency shall not approve a foster family home, and shall not place a child into a foster family home, which has been closed for cause by any other licensed child-placing agency or by the cabinet unless the foster family home has been successfully and continually operating as a cabinet foster family home for one (1) year after it was closed for cause by a licensed child-placing agency.*
 - 3. *A licensed child-placing agency shall not approve a foster family home, and shall not place a child into a foster family home, which is under corrective action by any other licensed child-placing agency or by the cabinet at time of the closure unless:*
 - a. *The foster family home provides all information on the corrective action to the licensed child-placing agency;*
 - b. *The licensed child-placing agency fully addresses the foster family home's corrective action in the foster family's home study narrative; and*
 - c. *The department reviews and approves the foster family's home study.*
- (3) *Licensed child-caring facilities and child-placing agencies shall collaborate with local school districts to promote educational stability for children under their care in accordance with Section 6 of this Act, and shall work to ensure that foster family homes under a child-placing agency's supervision understand and actively support the educational needs of the children placed in their care through training, support, and supervision of the home by the child-placing agency.*

➔Section 5. KRS 199.801 is amended to read as follows:

- (1) The department shall establish a procedure throughout the state that is designed to determine and expedite the placement of children who are in the custody of or committed to the department. The procedure shall utilize state-level and regional placement coordinators who may be state employees or employees of a contracted entity.
- (2) The type of placement selected for a child in the custody of or committed to the department shall be the best alternative for the child that is in closest proximity to the child's home county, including considerations of the child's current early care and education provider or school, *in order to promote educational stability for the child to the extent practicable in accordance with Section 6 of this Act and the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95.*

- (3) If the type of placement that best suits the child's needs is not available in the child's home county, the regional placement coordinator shall document the circumstance as an unmet need and may seek a placement in surrounding counties, regions, and the state, in that order.
- (4) If the type of placement that best suits the child's needs is not available within the state, the regional placement coordinator shall contact the commissioner of the department or the commissioner's designee to explore out-of-state placement.
- (5) The department shall develop a diligent recruitment plan and reporting to support the recruitment and retention of family foster homes that are responsive to the needs of children in care, areas of unmet need, and strategies to meet the need. The plan and reporting shall be used as a guide in the establishment and modification of agreements with placements for the care of children in the custody of or committed to the cabinet and shall be made available upon request.

➔Section 6. KRS 199.802 is amended to read as follows:

- (1) As used in this section:
 - (a) "Best interest of the child" means the determination regarding the enrollment of a child made when considering all factors relating to the best interest of a child, as outlined in 20 U.S.C. secs. 6301 et seq., including but not limited to:
 1. The benefits to the child of maintaining educational stability;
 2. The appropriateness of the current educational setting;
 3. The child's attachment and meaningful relationships with staff and peers at the current educational setting;
 4. The influence of the school's climate on the child;
 5. The safety of the child; and
 6. The proximity of the placement to the school of origin, and how the length of a commute would impact the child;
 - (b) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided, that is in the care of the department;
 - (c) "Educational stability" means the maintenance of the enrollment of a child in a particular school upon a transition to a different placement or living arrangement when such maintenance is in the best interest of the child, and if not, the enrollment of the child in a new school in a time and manner that ensures the child experiences a minimal lapse in school attendance; and
 - (d) "School of origin" means the public school in which the child was enrolled immediately prior to placement.
- (2) In determining the placement of a child under KRS 199.801, the department shall, if practicable, locate a placement within the same school district where the child was most recently enrolled to allow the child to remain enrolled in the school of origin.
- (3)
 - (a) The department, in consultation with the local education agency, shall make the determination on whether the child shall remain enrolled in the school of origin based on the best interest of the child, weighing the promotion of educational stability as a primary factor.
 - (b) In accordance with 20 U.S.C. secs. 6301 et seq., the cost of transportation shall not be a factor in determining the best interest of a child for an enrollment decision.
- (4) If the department finds it is in the best interest of a child to remain in the school of origin upon placement of the child in a new school district, reasonable transportation shall be offered from the location of placement to the school of origin in which the child is enrolled for any regularly scheduled school day. In accordance with 20 U.S.C. secs. 6301 et seq., costs incurred by a school district, foster parent, child-placing agency, or child-caring facility for transportation to the school shall be reimbursed by the department upon request.
- (5) Upon the determination that changing a child's school of enrollment is in the best interest of the child:
 - (a) The **department, any applicable child-caring facility, child-placing agency, school, and local school district, and the child's state agency caseworker** ~~[child welfare and local education agencies]~~ shall collaborate to ensure the immediate and appropriate enrollment of the child;

- (b)
 1. The child's *state agency* caseworker shall immediately contact the receiving district to *inform the district of the pending enrollment changes*.
 2. *The child's state agency caseworker or child-caring facility or child-placing agency case manager shall either accompany the child and the foster parent to the new school to enroll the child or contact applicable staff at the new school via telephone during the day of enrollment, to assist with the enrollment, to share information relating to the child's unique needs and prior experiences that may impact their education, and to identify and prevent disruptions in any instructional or support services that the child may have been receiving prior to that time, including but not limited to medical and behavioral health history and individual service plans*~~[enroll the child]~~;
 - (c) In accordance with 20 U.S.C. secs. 6301 et seq., the new school shall immediately enroll the child, even if the child is unable to produce records required for enrollment, including but not limited to:
 1. Academic records;
 2. Medical records; and
 3. Proof of residency;
 - (d) The new school shall immediately request the records of the child from the child's previous school;
 - (e) The previous school shall provide the new school:
 1. Notwithstanding KRS 159.170, all records within the student information system maintained by the Kentucky Department of Education regarding the child *by the end of the working day on the day*~~[within three (3) working days]~~ of receipt of a request made under this subsection. *If a record provided to the new school is incomplete, the previous school shall provide the completed record within three (3) working days of the original request*; and
 2. In accordance with KRS 159.170, all remaining records regarding the child within ten (10) working days of receipt of a request made under this subsection;
 - (f) *In accordance with 20 U.S.C. sec. 1232g*, the department responsible for the child, *and the child's state agency caseworker, or child-caring facility or child-placing agency case manager* shall be granted access to all educational records *on a confidential basis* in order to facilitate the proper transfer, *enrollment, and educational placement* of the child;
 - (g) In accordance with KRS 158.140(1), promotions or credits earned in attendance in any approved public school shall be accepted as valid at the new school;~~[and]~~
 - (h) The department, *child-caring facilities, child-placing agencies, child's state agency caseworkers, school districts*~~[each local education agency]~~, and foster parents shall *each* collaborate *with one another* to ensure the educational stability of each child, *and to assist one another with meeting the educational needs of each child in furtherance of the rights enumerated in KRS 620.363*; and
 - (i)
 1. *The department, child-caring facilities, child-placing agencies, and a child's state agency caseworker, may share information regarding a child and facts learned about a child and his or her unique needs and prior experiences, as necessary, with staff of the new school district in which the child is enrolling in order to identify and serve the educational needs of the child.*
 2. *All information regarding a child or facts learned about a child by the department, any child-caring facility or child-placing agency licensed by the cabinet, or a child's state agency caseworker, and shared with staff of a school district pursuant to this section, shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection, except to authorized employees of the school district in performance of their duties and to identify and serve the educational needs of the child.*
- (6) The *school* district in which the child is enrolled upon his or her successful completion of all high school graduation requirements shall issue a diploma indicating graduation from high school to the child.

➔Section 7. The Kentucky Department of Education shall undertake a review of the protocols for collection of student records, and the transfer of student records among schools and local districts, within the student information system. As part of this review, and in consultation with both the system vendor and school

administrators who regularly use the system to execute records transfers, the department shall seek to identify ways in which the transfer of student records among schools and districts may be executed more expeditiously, and more efficiently for both sending and receiving districts. The department shall report to the Interim Joint Committee on Education by December 1, 2020, on the outcome of the review and the nature of possible system improvements that may be identified.

Signed by Governor March 27, 2020.