

CHAPTER 180**(HB 492)**

AN ACT relating to child welfare.

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

➔Section 1. KRS 620.100 is amended to read as follows:

- (1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:
 - (a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);
 - (b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);
 - (c) The court shall appoint separate counsel for a person claiming to be a de facto custodian, as defined in KRS 403.270, if the person is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The person's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);
 - (d) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250); and
 - (e) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer.
- (2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.
- (3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.
- (4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

- (5) Foster parents, preadoptive parents, or relatives providing care for the child shall receive notice of, and shall have a right to be heard in, any proceeding held with respect to the child. This subsection shall not be construed to require that a foster parent, preadoptive parent, or relative caring for the child be made a party to a proceeding solely on the basis of the notice and right to be heard.
- (6) ***If the court determines that further proceedings are required, the court shall, in the interest of justice, have the ability to request that separate counsel is available to advise a cabinet employee in court anytime that the cabinet employee is required to be in court.***

➔Section 2. KRS 620.142 is amended to read as follows:

- (1) The cabinet shall develop custodial, permanency, and service options, including but not limited to monetary supports, that shall be available to a relative or fictive kin caregiver in the instance that a child, who would otherwise be placed in another out-of-home placement, is placed with him or her due to a cabinet finding that the child is abused, neglected, or dependent, as determined by an assessment or investigation conducted in accordance with this chapter. ***The custodial, permanency, and service options available to a relative or fictive kin caregiver shall include but not be limited to:***
- (a) ***A notification form that explains and describes the process by which a relative or fictive kin caregiver can be certified as a child-specific foster home and the financial and support benefits that come with that type of placement;***
- (b) ***A program for a one (1) time monetary benefit as established by an administrative regulation promulgated in accordance with KRS Chapter 13A per child given to the relative or fictive kin caregiver at the time a child is placed with the relative or fictive kin caregiver; and***
- (c) ***A detailed placement packet that lists all types of supports, financial and otherwise, that are available to a relative or fictive kin caregiver given to the relative or fictive kin caregiver at the time a child is placed with the relative or fictive kin caregiver.***
- (2) The cabinet shall disclose to a prospective relative or fictive kin caregiver each of the options established in subsection (1) of this section prior to the child's placement. The prospective relative or fictive kin caregiver shall select the option that best represents the level of care and support needed for the child while the child is receiving treatment and care in the placement with the relative or fictive kin caregiver.
- (3) The custodial, permanency, and service options required by subsection (1) of this section shall reflect nationally recognized best practices.
- (4) The cabinet shall maximize services available under federal and state law, including but not limited to Titles IV and XIX of the Social Security Act, to fulfill the requirements of this section.
- (5) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔Section 3. 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 ***currently placed in their care, provided the cabinet has no concerns related to maltreatment of the child while in the foster parent's care.*** 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 4. 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.
- (2) Any party other than the child who is not the petitioner shall be a respondent.
- (3) A foster parent of a child who is currently placed with the foster parent *for a minimum of six (6) months* may intervene as a matter of right in any action for the involuntary termination of parental rights involving a child who is placed with the foster parent, *provided the cabinet has no concerns related to maltreatment of the child while in the foster parent's care*. Such intervention may be made anonymously or in the true name of the foster parent. If proceeding anonymously, the foster parent shall be identified by initials and shall receive service through his or her counsel or, if not represented by counsel, by providing a preferred mailing address to receive notices from the court and other parties.

➔Section 5. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of the Ombudsman and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of Public Affairs, an Office of Human Resource Management, an Office of Finance and Budget, an Office of Legislative and Regulatory Affairs, an Office of Administrative Services, and an Office of Application Technology Services, as follows:
 - (a) The Office of the Ombudsman and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall:
 1. Investigate, upon complaint or on its own initiative, any administrative act of an organizational unit, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Organizational units, employees, or contractors of the cabinet shall not willfully obstruct an investigation, restrict access to records or personnel, or retaliate against a complainant or cabinet employee;
 2. Make recommendations that resolve citizen complaints and improve governmental performance and may require corrective action when policy violations are identified;
 3. Provide evaluation and information analysis of cabinet performance and compliance with state and federal law;
 4. Place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance;
 5. Provide information on how to contact the office for public posting at all offices where Department for Community Based Services employees or contractors work, at any facility where a child in the custody of the cabinet resides, and to all cabinet or contracted foster parents;
 6. Report to the Office of Inspector General *for review and investigation* any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her

- job duties; or any violation of state law or administrative regulation by any organization or individual regulated by, or contracted with the cabinet;
7. Compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and submit the report upon request to the Child Welfare Oversight and Advisory Committee established in KRS 6.943, and the Interim Joint Committee on Health and Welfare and Family Services;~~and~~
 8. Include oversight of administrative hearings; *and*
 9. ***Provide information to the Office of the Attorney General, when requested, related to substantiated violations of state law against an employee, a contractor of the cabinet, or a foster or adoptive parent;***
- (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105;
- (c) The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary. The Office of Inspector General shall be responsible for:
1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 2. Licensing and regulatory functions as the secretary may delegate;
 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963;
 4. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeals functions, pursuant to KRS Chapter 216B; and
 5. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority;
- (d) The Office of Public Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide information to the public and news media about the programs, services, and initiatives of the cabinet;
- (e) The Office of Human Resource Management shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality improvement services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions;
- (f) The Office of Finance and Budget shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of budget, contract, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- (g) The Office of Legislative and Regulatory Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of legislation, policy, and administrative regulations. The office

- shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- (h) The Office of Administrative Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of procurement, general accounting including grant monitoring, and facility management. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary; and
 - (i) The Office of Application Technology Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide application technology services including central review and oversight. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
 - (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
 - (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance abuse disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
 - (5) Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the office. The office shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The office may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Office for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
 - (6) Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services

programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and Serve Kentucky. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;

- (7) The Office of Health Data and Analytics shall identify and innovate strategic initiatives to inform public policy initiatives and provide opportunities for improved health outcomes for all Kentuckians through data analytics. The office shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services. The office shall facilitate the purchase of individual and small business health insurance coverage for Kentuckians. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor under KRS 12.050;
- (8) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (9) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (10) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Participant Directed Services Option (PDS) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

Signed by Governor April 5, 2021.