

## CHAPTER 75

## ( SB 8 )

AN ACT relating to child welfare and declaring an emergency.

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

➔Section 1. KRS 15.900 is amended to read as follows:

As used in KRS ~~15.900~~~~{15.910}~~ to 15.940:

- (1) **"Abused or neglected child" has the same meaning as in Section 17 of this Act;**
- (2) "Child" means a person under eighteen (18) years of age;
- ~~(3)~~~~(2)~~ "Child sexual abuse and exploitation" means harm to a child's health or welfare by any person, responsible or not for the child's health or welfare, which harm occurs or is threatened through nonaccidental sexual contact which includes violations of KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320, and 531.370;
- ~~(4)~~~~(3)~~ **"Community resource organization"**~~{Local task force}~~ means an organization which meets the criteria described in KRS 15.940;
- ~~(5)~~~~(4)~~ "State board" means the State Child ~~{Sexual}~~Abuse and ~~Neglect~~~~{Exploitation}~~ Prevention Board created in **Section 2 of this Act**~~{KRS 15.910}~~;
- ~~(6)~~~~(5)~~ "Prevention program" means a system of direct provision of child sexual abuse and exploitation **or child abuse and neglect** prevention services to a child, parent, or guardian, but shall not include research programs related to prevention of child sexual abuse and exploitation **or child abuse and neglect**; and
- ~~(7)~~~~(6)~~ "Trust fund" means the child victims' trust fund established in the Office of the State Treasurer.

➔Section 2. KRS 15.905 is amended to read as follows:

- (1) The State Child ~~{Sexual}~~Abuse and ~~Neglect~~~~{Exploitation}~~ Prevention Board is created as an autonomous agency within the Office of the Attorney General.
- (2) The state board may appoint an executive director of the state board to exercise the powers and carry out the duties of the state board.

➔Section 3. KRS 15.910 is amended to read as follows:

- (1) The state board shall be composed of the following **fifteen (15)** members:
  - (a)
    1. The secretary of the Cabinet for Health and Family Services **or designee**;
    2. **The secretary of the Education and Workforce Development Cabinet or designee**;
    3. **The secretary of the Justice and Public Safety Cabinet or designee**;
    4. ~~{, the secretary of the Finance and Administration Cabinet, the chief state school officer, }~~The commissioner of the Department of Kentucky State Police **or designee**~~;~~ and
    5. The Attorney General~~;~~ **or designee**~~{designees authorized to speak on their behalf};~~~~{and}~~
  - (b) **Eight (8)**~~{Ten (10)}~~ public members **from each of the following organizations**~~{appointed by the Governor}~~
    1. **The executive director of the Kentucky Youth Advocates or designee**;
    2. **The executive director of the Prevent Child Abuse Kentucky or designee**;
    3. **The state director of the Kentucky Court Appointed Special Advocates Network, Inc. or designee**;
    4. **The executive director of the Children's Advocacy Centers of Kentucky or designee**;
    5. **The president of the Children's Alliance or designee**;

6. *The executive director of the Kentucky Chapter of the American Academy of Pediatrics or designee;*
  7. *The executive director of the Kentucky Association of Regional Programs or designee; and*
  8. *The director of the Kentucky Administrative Office of the Courts or designee; and*
- (c) *Two (2) nonvoting liaisons who are members of the General Assembly, one (1) of whom shall be a member of the House of Representatives appointed by the Speaker of the House of Representatives, and one (1) of whom shall be a member of the Senate appointed by the President of the Senate.* ~~It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.~~
- ~~(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms, whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.~~
- ~~(2)~~~~(3)~~ The Attorney General shall serve as *chairperson*~~{chairman}~~ or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.
- ~~(3)~~~~(4)~~ There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.
- (4) *A majority of the entire membership of the state board, excluding nonvoting liaison members, shall constitute a quorum, and all actions of the state board shall be by vote of a majority of its entire membership, excluding nonvoting liaison members.*
- ➔Section 4. KRS 15.920 is amended to read as follows:
- (1) The state board shall do all of the following:
- (a) Meet not less than *quarterly*~~{twice annually}~~ at the call of the chairperson;
  - (b) One (1) year after the original appointment of the state board, and biennially thereafter, develop a state plan for the distribution of funds from the trust fund. In developing the plan, the state board shall review already existing prevention programs. The plan shall assure that an equal opportunity exists for establishment of prevention programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the House of Representatives, to the clerk of the Senate, and to the Governor;
  - (c) Provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;
  - (d) Develop and publicize criteria for the receipt of trust fund money by eligible *community resource organizations*~~{local task forces}~~ and eligible prevention programs;
  - (e) Review, approve, and monitor the expenditure of trust fund money by *community resource organizations*~~{local task forces}~~ and prevention programs;
  - (f) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the prevention of child sexual abuse and exploitation *and child abuse and neglect*; encourage professional persons and groups to recognize and deal with prevention of child sexual abuse and exploitation *and child abuse and neglect*; encourage and coordinate the development of *community resource organizations*~~{local task forces}~~; make information about the prevention of child sexual abuse and exploitation *and child abuse and neglect* available to the public and organizations and agencies which deal with problems of child sexual abuse and exploitation *and child abuse and neglect*; and encourage the development of community prevention programs; and

- (g) Establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the state board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.
- (2) The state board may enter into contracts with public or private agencies to fulfill the requirements of this section. The state board shall utilize existing state resources and staff of participating departments whenever practicable.

➔Section 5. KRS 15.925 is amended to read as follows:

The state board *shall by December 1 of each year report*~~{may recommend}~~ to the Governor and the General Assembly *recommending* changes in state programs, statutes, policies, budgets, and standards *that*~~{which}~~ will reduce the problem of child sexual abuse and exploitation *and child abuse and neglect*, improve coordination among *government and private*~~{state}~~ agencies that provide prevention services and improve the condition of children and parents or guardians who are in need of prevention program services.

➔Section 6. KRS 15.935 is amended to read as follows:

- (1) The state board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, for exclusively the following purposes, which are listed in the order of preference for expenditure:
  - (a) To fund a private nonprofit or public organization in the development or operation of a prevention program if at least all of the following conditions are met:
    - 1. The appropriate *community resource organization*~~{local task force}~~ has reviewed and approved the program. This subparagraph does not apply if a *community resource organization*~~{local task force}~~ does not exist for the geographic area to be served by the program;
    - 2. The organization agrees to match *a percentage, as determined by the state board, of the total cost of the project through dollars as a match*~~{fifty percent (50%) of the amount requested from the trust fund. At least ten percent (10%) of the amount requested shall be matched through dollars, and the remaining match shall be through in kind contributions. The type of contributions shall be subject to the approval of the state board}~~;
    - 3. The organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance; and
    - 4. Other conditions that the state board may deem appropriate;
  - (b) To fund the cost of medical examinations of victims of suspected child sexual abuse *and child abuse and neglect* to the extent the fee for an examination is a service not eligible to be paid for by Medicaid or private insurance. The fees paid for this examination shall not exceed reasonable, usual, and customary charges as set by the state board;
  - (c) To fund the cost of counseling and other mental health services to victims of child sexual abuse *and child abuse and neglect* to the extent the fees for counseling and mental health services are services not eligible to be paid for by Medicaid or private insurance. The fees paid for counseling and mental health services shall not exceed reasonable, usual, and customary charges as set by the state board;
  - (d) To fund *community resource organizations*~~{local task forces}~~;
  - (e) To fund a statewide public education and awareness campaign on child sexual abuse *and child abuse and neglect*, making use of electronic and print media to inform the public about the nature of child sexual abuse *and child abuse and neglect*, legal reporting requirements, victim rights, legal remedies, agency services, and prevention strategies;
  - (f) To fund and evaluate the comparative success of statewide comprehensive approaches to prevention education making use of multiple approaches; and
  - (g) To fund the state board created in KRS 15.905 for the actual and necessary operating expenses that the board incurs in performing its duties.
- (2) Authorizations for disbursement of trust fund money under subsection (1)(g) of this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund which is to disburse money under subsections

(1)(a), (b), (c), (d), (e), and (f) of this section to encourage the direct provision of services to prevent child abuse and exploitation *and child abuse and neglect*, and to provide medical examination and counseling or other mental health services for victims of child sexual abuse *and child abuse and neglect*.

➔Section 7. KRS 15.940 is amended to read as follows:

In making grants to a *community resource organization*~~[local task force]~~, the state board shall consider the degree to which the *community resource organization*~~[local task force]~~ meets the following criteria:

- (1) Has as its primary purpose the development and facilitation of a collaborative community prevention program in a specific geographical area. The prevention program shall utilize trained volunteers and existing community resources wherever practicable;
- (2) Is comprised of local law enforcement and social services representatives and does not exclude any organization or person that the state board deems necessary;
- (3) Demonstrates a willingness and ability to provide prevention program models and consultation to organizations and communities regarding prevention program development and maintenance;
- (4) Agrees to match fifty percent (50%) of the amount requested from the trust fund. At least ten percent (10%) of the amount requested shall be matched through dollars, and the remaining match shall be through in-kind contributions. The amount and types of in-kind services are subject to the approval of the state board; and
- (5) Other criteria that the state board deems appropriate.

➔Section 8. KRS 15.942 is amended to read as follows:

The Justice and Public Safety Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for Health and Family Services shall develop a training plan for investigation of child sexual abuse *and child abuse and neglect* cases and protection of child sexual abuse *and child abuse and neglect* victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health-care professionals *or child welfare organizations* needed for implementation of training programs.

➔Section 9. KRS 15.948 is amended to read as follows:

The Attorney General shall have staff available who are specially trained in child sexual abuse *and child abuse and neglect*. Commonwealth's attorneys and county attorneys may request assistance in the investigation and prosecution of child sexual abuse *and child abuse and neglect* cases in accordance with provisions of this chapter.

➔Section 10. KRS 194A.010 is amended to read as follows:

- (1) The cabinet is the primary state agency for operating the public health, Medicaid, certificate of need and licensure, and mental health and intellectual disability programs in the Commonwealth. The function of the cabinet is to improve the health of all Kentuckians, including the delivery of population, preventive, reparative, and containment health services in a safe and effective fashion, and to improve the functional capabilities and opportunities of Kentuckians with disabilities. The cabinet is to accomplish its function through direct and contract services for planning and through the state health plan and departmental plans for program operations, for program monitoring and standard setting, and for program evaluation and resource management.
- (2) The cabinet is the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services. Recognizing that children are the Commonwealth's greatest natural resource and that individuals and their families are the most critical component of a strong society, the cabinet shall deliver social services to promote the safety and security of Kentuckians and preserve their dignity. The cabinet shall administer child welfare programs that promote collaboration and accountability among *government agencies*~~[local]~~, public, and private programs to improve the lives of families and children~~[, including collaboration with the Council on Accreditation for Children and Family Services or its equivalent]~~ in developing strategies consistent with best practice standards for delivery of services. The cabinet also shall administer income-supplement programs that protect, develop, preserve, and maintain individuals, families, and children in the Commonwealth.

➔Section 11. KRS 199.011 is amended to read as follows:

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

- (1) "Adoption worker" means an employee of the cabinet so designated by the secretary for health and family services, a social worker employed by a county or city who has been approved by the cabinet to handle, under

its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;

- (2) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person who has not reached his eighteenth birthday;
- (5) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, 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, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;
- (6) "Child-placing agency" means any agency licensed by the cabinet, which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;
- (7) "Department" means the Department for Community Based Services;
- (8) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;
- (9) "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, *or an emotionally significant relationship with a biological parent, siblings, or half-siblings of the child in the case of a child from birth to twelve (12) months of age, prior to placement;*
- (10) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;
- (11) "Group home" means a homelike facility, excluding Department of Juvenile Justice-operated or -contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;
- (12) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;
- (13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency, which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption;
- (14) "Rap back system" means a system that enables an authorized entity to receive ongoing status notifications of any criminal history from the Department of Kentucky State Police or the Federal Bureau of Investigation reported on an individual whose fingerprints are registered in the system, upon approval and implementation of the system;
- (15) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);
- (16) "Secretary" means the secretary for health and family services; and
- (17) "Voluntary and informed consent" means that at the time of the execution of the consent, the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person, and include the following:
  - (a) Date, time, and place of the execution of the consent;
  - (b) Name of the child, if any, to be adopted, and the date and place of the child's birth;

- (c) Consenting person's relationship to the child;
- (d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;
- (e)
  1. A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.
  2. If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable seventy-two (72) hours after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the expiration of the seventy-two (72) hours by certified or registered mail and also by first-class mail.
  3. If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable seventy-two (72) hours after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the expiration of the seventy-two (72) hours by certified or registered mail and also by first-class mail;
- (f) Disposition of the child if the adoption is not adjudged;
- (g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;
- (h) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and
- (i) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

➔Section 12. KRS 199.505 is amended to read as follows:

- (1) An attorney or child-placing agency that arranges a prospective adoption may at any time request that the cabinet search the putative father registry established under KRS 199.503 to determine whether a putative father is registered in relation to a mother whose child is the subject of the adoption.
- (2) An attorney or child-placing agency that arranges a prospective adoption may at any time serve the putative father of a child or cause the putative father to be served with actual notice that the mother of the child is considering an adoptive placement for the child.
- (3) Beginning July 14, 2018, whenever a petition for adoption is filed, the attorney or child-placing agency that arranges the adoption shall request that the cabinet search the putative father registry at least one (1) day after the expiration of the period specified by KRS 199.480(1)(b)2.
- (4) No later than five (5) *business* days after receiving a request under subsection (1) or (3) of this section, the cabinet shall submit an affidavit to the requesting party verifying whether a putative father is registered in relation to a mother whose child is the subject of the adoption.
- (5) Whenever the cabinet finds that one (1) or more putative fathers are registered, the cabinet shall submit a copy of each registration form with its affidavit.
- (6) A court shall not grant an adoption unless the cabinet's affidavit under this section is filed with the court.
- (7) An adoption involving a foreign-born child, an adoption initiated out-of-state, or a public agency adoption shall not be subject to the requirements of this section.

➔Section 13. KRS 199.540 is amended to read as follows:

- ~~{(1) If a child adopted under KRS 199.470 to 199.520 reveals definite traits of ethnological ancestry different from those of the adoptive parents, and of which the adoptive parents had no knowledge or information prior to the adoption, a petition setting forth the facts may be filed by the original petitioner or the cabinet at any time within five (5) years after the adoption with the court which decreed the adoption. If upon hearing the facts set~~

~~forth in the petition they are established, the court may enter a decree of annulment of the adoption and setting aside any or all rights or obligations which may have accrued by reason of the adoption.~~

(2) After the expiration of one (1) year from the date of the entry of judgment of adoption, the validity thereof shall not be subject to attack in any action, collateral or direct, by reason of any irregularity or failure to comply with KRS 199.470 to 199.520, either procedurally or substantively.

➔Section 14. KRS 199.570 is amended to read as follows:

- (1) (a) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to the proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection.
  - (b) Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed, *or a digital file with restricted access*, and shall not be open for inspection by any person except on written order of the court, except that upon the written consent of the biological parents and upon written order of the Circuit Court all papers and records including all files and records of the Circuit Court during proceedings for termination of parental rights provided in KRS 625.108 shall be open for inspection to any adult adopted person who applies in person or in writing to the Circuit Court as provided in KRS 199.572. Health information received pursuant to KRS 199.525 shall be added to the adoption case file. The clerk of the Circuit Court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.
  - (c) No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records to any person or other entity that does not meet the requirements of KRS 199.572, except upon order of the court which entered the judgment of adoption.
- (2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly report to the Cabinet for Health and Family Services of Kentucky full information as called for on forms furnished by the Cabinet for Health and Family Services, necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the Cabinet for Health and Family Services shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the court."
  - (3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents, and such other information deemed necessary in accordance with rules and regulations promulgated by the Cabinet for Health and Family Services in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the biological parent or parents of the child. If requested by the adoptive parents, the new birth certificate when issued shall contain the location of birth, hospital, and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the Cabinet for Health and Family Services shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the Circuit Court which issued the adoption order. The Cabinet for Health and Family Services shall furnish to the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section. If the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. If the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.
  - (4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of the child's birth.
  - (5) If any judgment of adoption is reversed, modified, or vacated in any particular, the clerk of the Circuit Court shall notify the Cabinet for Health and Family Services of the reversal or modification and the effect of same, and the cabinet shall make any necessary changes in its records.

➔Section 15. KRS 200.575 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires:

- (a) "Department" means the Department for Community Based Services; and
- (b) "Family preservation services" means programs that:
  - 1. Follow intensive, home-based service models with demonstrated effectiveness in reducing or avoiding the need for out-of-home placement;
  - 2. Provide such services that result in lower costs than would out-of-home placement; and
  - 3. Employ specially trained caseworkers who shall:
    - a. Provide at least half of their services in the family's home or other natural community setting;
    - b. Provide direct therapeutic services available twenty-four (24) hours per day for a family;
    - c. Aid in the solution of practical problems that contribute to family stress so as to effect improved parental performance and enhanced functioning of the family unit;
    - d. Arrange for additional assistance, including but not limited to housing, child care, education, and job training, emergency cash grants, state and federally funded public assistance, and other basic support needs; and
    - e. Supervise any paraprofessionals or "family aides" made available to provide specialized services or skills to manage everyday problems and better provide and care for children.
- (2) The department shall be the lead administrative agency for family preservation services and may receive funding for the implementation of these services. The department shall:
  - (a) Provide the coordination of and planning for the implementation of family preservation services;
  - (b) Provide standards for family preservation services programs;
  - (c) Monitor these services to ensure they meet measurable standards of performance as set forth in state law and as developed by the department; and
  - (d) Provide the initial training and approve any ongoing training required by providers of family preservation services.
- (3) The department may provide family preservation services directly or may contract to provide these services. In the event the department provides family preservation services with state caseworkers, those caseworkers and cases shall be excluded for the overall caseworker or case averages provided on a quarterly basis to the Legislative Research Commission and the Governor's office under KRS 199.461. Family preservation services caseworkers and cases shall be included in the report as a separate category.
- (4) If the department contracts to provide family preservation services, the contract shall include:
  - (a) Requirements for acceptance of any client referred by the department for family preservation services;
  - (b) Caseload standards per caseworker;
  - (c) Provision of twenty-four (24) hour crisis intervention services to families served by the program;
  - (d) Minimum initial and ongoing training standards for family preservation services staff; and
  - (e) Internal programmatic evaluation and cooperation with external evaluation as directed by the department.
- (5) Family preservation services shall be provided only to those children~~[ who are ]~~ at ~~[ actual, ]~~imminent *or moderate* risk of out-of-home placement:
  - (a) Who are at risk of commitment as dependent, abused, or neglected;
  - (b) Who are emotionally disturbed; ~~or [and]~~
  - (c) Whose families are in conflict such that they are unable to exercise reasonable control of the child.
- (6) Families in which children are at risk of recurring sexual abuse perpetrated by a member of their immediate household who remains in close physical proximity to the victim or whose continued safety from recurring abuse cannot be reasonably ensured, shall not be eligible for family preservation services.



- (7) The implementation of family preservation services shall be limited to those situations where protection can be ensured for children, families, and the community.
- (8) The provision of family preservation services to a family shall constitute a reasonable effort by the Cabinet for Health and Family Services to prevent the removal of a child from the child's home under KRS 620.140, provided that the family has received timely access to other services from the Cabinet for Health and Family Services for which the family is eligible.
- (9) Acceptance of family preservation services shall not be considered an admission to any allegation that initiated the investigation of the family, nor shall refusal of family preservation services be considered as evidence in any proceeding except where the issue is whether the Cabinet for Health and Family Services has made reasonable efforts to prevent removal of a child.
- (10) No family preservation services program shall compel any family member to engage in any activity or refrain from any activity, which is not reasonably related to remedying any condition that gave rise, or which could reasonably give rise, to any finding of child abuse, neglect, or dependency.
- (11) The commissioner of the department shall conduct and submit to the Child Welfare Oversight and Advisory Committee established in KRS 6.943, an annual evaluation of the family preservation services, which shall include the following:
  - (a) The number of families receiving family preservation services, the number of children in those families, and the number of children in those families who would have been placed in out-of-home care if the family preservation services had not be available;
  - (b) Among those families receiving family preservation services, the number of children placed outside the home;
  - (c) The average cost per family of providing family preservation services;
  - (d) The number of children who remain reunified with their families six (6) months and one (1) year after completion of the family preservation services; and
  - (e) An overall evaluation of the progress of family preservation services programs during the preceding year, recommendations for improvements in the delivery of this service, and a plan for the continued development of family preservation services to ensure progress towards statewide availability.
- (12) Nothing in this section shall prohibit the department from developing other in-home services in accordance with its statutory authority to promulgate administrative regulations in accordance with KRS Chapter 13A or to enter into contractual arrangements in accordance with KRS Chapter 45.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) *For the purposes of this section:*

- (a) *"Advanced practice registered nurse" has the same meaning as in KRS 314.011;*
- (b) *"Children's advocacy center" has the same meaning as in KRS 620.020;*
- (c) *"Child medical evaluation" means an examination at a children's advocacy center to evaluate for child physical abuse, sexual abuse, or neglect and to exclude other etiologies and evaluate the health and well-being of the child. A child medical evaluation shall include but not be limited to one (1) or more of the following:*
  - 1. *A medical history taken from the child and a nonimplicated parent, guardian, or primary caretaker;*
  - 2. *A comprehensive physical examination;*
  - 3. *Laboratory services;*
  - 4. *Photo documentation;*
  - 5. *Follow-up evaluation; or*
  - 6. *A mental health screening to determine the impact of the alleged abuse on the mental health status of the child and the need for mental health services;*
- (d) *"Physician" has the same meaning as in KRS 311.550; and*

- (e) *"Sexual assault nurse examiner" has the same meaning as in KRS 314.011.*
- (2) *The Cabinet for Health and Family Services and any managed care organization or other entity with whom the Department for Medicaid Services contracts for the delivery of Medicaid services shall provide Medicaid reimbursement for a child medical evaluation provided by a licensed physician, advanced practice registered nurse, or sexual assault nurse examiner employed or contracted by a children's advocacy center if the children's advocacy center is in compliance with the appropriate and necessary federal and state laws or regulations.*
- (3) *Child medical evaluations provided by a licensed physician, advanced practice registered nurse, or sexual assault nurse examiner in a children's advocacy center shall be reimbursed by the Department for Medicaid Services at the true and actual cost of the child medical evaluation.*
- (4) *The Department for Medicaid Services shall apply for any waivers of federal laws or regulations necessary to implement this section.*
- (5) *The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*

➔Section 17. 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 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 *when financially able to do so or offered financial or other means to do so*. 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;
  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
  10. Commits or allows female genital mutilation as defined in KRS 508.125 to be committed; 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, ***or an emotionally significant relationship with a biological parent, siblings, or half-siblings of the child in the case of a child from birth to twelve (12) months of age, prior to placement;***
- (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, a private agency or company engaged in providing mental health services, 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, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, 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, a private agency or company engaged in providing mental health services, 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, a private agency or company engaged in providing mental health services, 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; and
  4. 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 18. KRS 620.055 is amended to read as follows:

- (1) An external child fatality and near fatality review panel is hereby created and established for the purpose of conducting comprehensive reviews of child fatalities and near fatalities, reported to the Cabinet for Health and Family Services, suspected to be a result of abuse or neglect. The panel shall be attached to the Justice and Public Safety Cabinet for staff and administrative purposes.
- (2) The external child fatality and near fatality review panel shall be composed of the following five (5) ex officio nonvoting members and fifteen (15) voting members:
  - (a) The chairperson of the House Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;
  - (b) The chairperson of the Senate Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;
  - (c) The commissioner of the Department for Community Based Services, who shall be an ex officio nonvoting member;
  - (d) The commissioner of the Department for Public Health, who shall be an ex officio nonvoting member;
  - (e) A family court judge selected by the Chief Justice of the Kentucky Supreme Court, who shall be an ex officio nonvoting member;
  - (f) A pediatrician from the University of Kentucky's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney



- General from a list of three (3) names provided by the dean of the University of Kentucky School of Medicine;
- (g) A pediatrician from the University of Louisville's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Louisville School of Medicine;
  - (h) The state medical examiner or designee;
  - (i) A court-appointed special advocate (CASA) program director to be selected by the Attorney General from a list of three (3) names provided by the Kentucky CASA Association;
  - (j) A peace officer with experience investigating child abuse and neglect fatalities and near fatalities to be selected by the Attorney General from a list of three (3) names provided by the commissioner of the Kentucky State Police;
  - (k) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by the Attorney General from a list of three (3) names provided by the president of the Prevent Child Abuse Kentucky, Inc. board of directors;
  - (l) A practicing local prosecutor to be selected by the Attorney General;
  - (m) The executive director of the Kentucky Domestic Violence Association or the executive director's designee;
  - (n) The chairperson of the State Child Fatality Review Team established in accordance with KRS 211.684 or the chairperson's designee;
  - (o) A practicing social work clinician to be selected by the Attorney General from a list of three (3) names provided by the Board of Social Work;
  - (p) A practicing addiction counselor to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Addiction Professionals;
  - (q) A representative from the family resource and youth service centers to be selected by the Attorney General from a list of three (3) names submitted by the Cabinet for Health and Family Services;
  - (r) A representative of a community mental health center to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Regional Mental Health and Mental Retardation Programs, Inc.;
  - (s) A member of a citizen foster care review board selected by the Chief Justice of the Kentucky Supreme Court; and
  - (t) An at-large representative who shall serve as chairperson to be selected by the Secretary of State.
- (3) (a) By August 1, 2013, the appointing authority or the appointing authorities, as the case may be, shall have appointed panel members. Initial terms of members, other than those serving ex officio, shall be staggered to provide continuity. Initial appointments shall be: five (5) members for terms of one (1) year, five (5) members for terms of two (2) years, and five (5) members for terms of three (3) years, these terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment.
- (b) Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of two (2) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment. Vacancies in the membership of the panel shall be filled in the same manner as the original appointments.
  - (c) At any time, a panel member shall recuse himself or herself from the review of a case if the panel member believes he or she has a personal or private conflict of interest.
  - (d) If a voting panel member is absent from two (2) or more consecutive, regularly scheduled meetings, the member shall be considered to have resigned and shall be replaced with a new member in the same manner as the original appointment.

- (e) If a voting panel member is proven to have violated subsection (13) of this section, the member shall be removed from the panel, and the member shall be replaced with a new member in the same manner as the original appointment.
- (4) The panel shall meet at least quarterly and may meet upon the call of the chairperson of the panel.
- (5) Members of the panel shall receive no compensation for their duties related to the panel, but may be reimbursed for expenses incurred in accordance with state guidelines and administrative regulations.
- (6) Each panel member shall be provided copies of all information set out in this subsection, including but not limited to records and information, upon request, to be gathered, unredacted, and submitted to the panel within thirty (30) days by the Cabinet for Health and Family Services from the Department for Community Based Services or any agency, organization, or entity involved with a child subject to a fatality or near fatality:
  - (a) Cabinet for Health and Family Services records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons supervising the child at the time of the incident that include all records and documentation set out in this paragraph:
    - 1. All prior and ongoing investigations, services, or contacts;
    - 2. Any and all records of services to the family provided by agencies or individuals contracted by the Cabinet for Health and Family Services; and
    - 3. All documentation of actions taken as a result of child fatality internal reviews conducted pursuant to KRS 620.050(12)(b);
  - (b) Licensing reports from the Cabinet for Health and Family Services, Office of Inspector General, if an incident occurred in a licensed facility;
  - (c) All available records regarding protective services provided out of state;
  - (d) All records of services provided by the Department for Juvenile Justice regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident;
  - (e) Autopsy reports;
  - (f) Emergency medical service, fire department, law enforcement, coroner, and other first responder reports, including but not limited to photos and interviews with family members and witnesses;
  - (g) Medical records regarding the deceased or injured child, including but not limited to all records and documentation set out in this paragraph:
    - 1. Primary care records, including progress notes; developmental milestones; growth charts that include head circumference; all laboratory and X-ray requests and results; and birth record that includes record of delivery type, complications, and initial physical exam of baby;
    - 2. In-home provider care notes about observations of the family, bonding, others in home, and concerns;
    - 3. Hospitalization and emergency department records;
    - 4. Dental records;
    - 5. Specialist records; and
    - 6. All photographs of injuries of the child that are available;
  - (h) Educational records of the deceased or injured child, or other children residing in the home where the incident occurred, including but not limited to the records and documents set out in this paragraph:
    - 1. Attendance records;
    - 2. Special education services;
    - 3. School-based health records; and
    - 4. Documentation of any interaction and services provided to the children and family.

The release of educational records shall be in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its implementing regulations;

- (i) Head Start records or records from any other child care or early child care provider;
  - (j) Records of any Family, Circuit, or District Court involvement with the deceased or injured child and his or her caregivers, residents of the home and persons involved with the child at the time of the incident that include but are not limited to the juvenile and family court records and orders set out in this paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
    - 1. Petitions;
    - 2. Court reports by the Department for Community Based Services, guardian ad litem, court-appointed special advocate, and the Citizen Foster Care Review Board;
    - 3. All orders of the court, including temporary, dispositional, or adjudicatory; and
    - 4. Documentation of annual or any other review by the court;
  - (k) Home visit records from the Department for Public Health or other services;
  - (l) All information on prior allegations of abuse or neglect and deaths of children of adults residing in the household;
  - (m) All law enforcement records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident; and
  - (n) Mental health records regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident.
- (7) The panel may seek the advice of experts, such as persons specializing in the fields of psychiatric and forensic medicine, nursing, psychology, social work, education, law enforcement, family law, or other related fields, if the facts of a case warrant additional expertise.
  - (8) The panel shall post updates after each meeting to the Web site of the Justice and Public Safety Cabinet regarding case reviews, findings, and recommendations.
  - (9) The panel chairperson, or other requested persons, shall report a summary of the panel's discussions and proposed or actual recommendations to the Interim Joint Committee on Health and Welfare of the Kentucky General Assembly monthly or at the request of a committee co-chair. The goal of the committee shall be to ensure impartiality regarding the operations of the panel during its review process.
  - (10) The panel shall publish an annual report by December 1 of each year consisting of case reviews, findings, and recommendations for system and process improvements to help prevent child fatalities and near fatalities that are due to abuse and neglect. The report shall be submitted to the Governor, the secretary of the Cabinet for Health and Family Services, the Chief Justice of the Supreme Court, the Attorney General, *the State Child Abuse and Neglect Prevention Board established pursuant to Section 2 of this Act*, and the director of the Legislative Research Commission for distribution to the Child Welfare Oversight and Advisory Committee, *the Interim Joint Committee on Health, Welfare, and Family Services, and the Interim Joint Committee on* ~~established in KRS 6.943 and the~~ ~~Judiciary~~ ~~Committee~~.
  - (11) Information and record copies that are confidential under state or federal law and are provided to the external child fatality and near fatality review panel by the Cabinet for Health and Family Services, the Department for Community Based Services, or any agency, organization, or entity for review shall not become the information and records of the panel and shall not lose their confidentiality by virtue of the panel's access to the information and records. The original information and records used to generate information and record copies provided to the panel in accordance with subsection (6) of this section shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the external child fatality and near fatality review panel or any of the panel members. Information and record copies provided to the panel for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies of information and records provided to the panel involving an individual case shall be destroyed by the Justice and Public Safety Cabinet.
  - (12) Notwithstanding any provision of law to the contrary, the portions of the external child fatality and near fatality review panel meetings during which an individual child fatality or near fatality case is reviewed or discussed by panel members may be a closed session and subject to the provisions of KRS 61.815(1) and shall

only occur following the conclusion of an open session. At the conclusion of the closed session, the panel shall immediately convene an open session and give a summary of what occurred during the closed session.

- (13) Each member of the external child fatality and near fatality review panel, any person attending a closed panel session, and any person presenting information or records on an individual child fatality or near fatality shall not release information or records not available under the Kentucky Open Records Act, KRS 61.870 to 61.884 to the public.
- (14) A member of the external child fatality and near fatality review panel shall not be prohibited from making a good faith report to any state or federal agency of any information or issue that the panel member believes should be reported or disclosed in an effort to facilitate effectiveness and transparency in Kentucky's child protective services.
- (15) A member of the external child fatality and near fatality review panel shall not be held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as a result of any action taken or omitted in the performance of the member's duties pursuant to this section and KRS 620.050, except for violations of subsection (11), (12), or (13) of this section.
- (16) Beginning in 2014 the Legislative Oversight and Investigations Committee of the Kentucky General Assembly shall conduct an annual evaluation of the external child fatality and near fatality review panel established pursuant to this section to monitor the operations, procedures, and recommendations of the panel and shall report its findings to the General Assembly.

➔Section 19. 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 by agreement, which may be entered into at any time. Informal adjustment may include an agreed plan by which:
    - 1. The parent or other person exercising custodial control or supervision agrees that grounds exist for a finding of dependency, neglect, or abuse, and agrees to the conditions of protective orders under paragraph (b) of this subsection for a duration of up to one (1) year;
    - 2. The action will be dismissed by the court, without hearing, at the end of the period agreed upon if no motion is brought alleging a violation of a protective order; and
    - 3. If a motion is brought alleging a violation of a protective order, a hearing will be held at which the parent or other person exercising custodial control or supervision may contest the alleged violation, but may not contest the original grounds for a finding of dependency, neglect, or abuse. If a violation is found to have occurred, the court may consider other dispositional alternatives pursuant to this section;
  - (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 *twenty (20)*~~nineteen (19)~~ years of age. *A youth may opt in or out of extended commitment up to two (2) times prior to attaining twenty (20) years of age, with a ninety (90) day grace period between the time he or she exits and then reenters custody so long as there is documentation that his or her request was submitted prior to attaining twenty (20) years of age. The court may grant an extension or reinstatement of a youth's commitment even if the concurrence of the cabinet occurs after the youth attains twenty (20) 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 20. KRS 620.363 is amended to read as follows:

A child who is placed in foster care shall be considered a primary partner and member of a professional team. A foster child, as the most integral part of the professional team, shall have the following rights to:

- (1) Adequate food, clothing, and shelter;
- (2) Freedom from physical, sexual, or emotional injury or exploitation;
- (3) Develop physically, mentally, and emotionally to his or her potential;
- (4) A safe, secure, and stable family;
- (5) Individual educational needs being met;
- (6) Remain in the same educational setting prior to removal, whenever possible;
- (7) Placement in the least restrictive setting in close proximity to his or her home that meets his or her needs and serves his or her best interests to the extent that such placement is available;
- (8) Information about the circumstances requiring his or her initial and continued placement;
- (9) Receive notice of, attend, and be consulted in the development of case plans during periodic reviews;
- (10) Receive notice of and participate in court hearings;
- (11) Receive notice of and explanation for changes in placement or visitation agreements;
- (12) Visit the family in the family home, receive visits from family and friends, and have telephone conversations with family members, when not contraindicated by the case plan or court order;
- (13) Participate in extracurricular, social, cultural, and enrichment activities, including but not limited to sports, field trips, and overnights;
- (14) Express opinions on issues concerning his or her *placement*, care, or treatment;
- (15) Three (3) additional rights if he or she is age fourteen (14) years or older. These additional three (3) rights are the right to:
  - (a) Designate two (2) additional individuals to participate in case planning conferences or periodic reviews, who are not the foster parent or his or her worker, and who may advocate on his or her behalf. The cabinet, child-caring facility, or child-placing agency may reject an individual with reasonable belief that the individual will not act appropriately on the child's behalf;
  - (b) Receive a written description of the programs and services that will help prepare him or her for the transition from foster care to successful adulthood; and
  - (c) Receive a consumer report yearly until discharged from care and to receive assistance in interpreting and resolving any inaccuracies in the report, pursuant to 42 U.S.C. sec. 675(5)(I);~~and~~
- (16) Receive, free of charge when he or she is eighteen (18) years or older and preparing to exit foster care by reason of attaining the age of eighteen (18) years old, the following:

- (a) An official birth certificate;
- (b) A Social Security card;
- (c) Health insurance information;
- (d) ~~[A copy of the child's medical records; and~~
- ~~(e) ]A state-issued identification; and~~
- (e) *A copy of the child's cabinet case history, including:*
  - 1. *Family medical history;*
  - 2. *Placement history records; and*
  - 3. *The child's medical records, including physical, dental, vision, and mental health records;*
- (17) *Request placement be made where he or she feels the most safe and accepted;*
- (18) *Participate in a sibling or half-sibling's court hearing if deemed appropriate by the cabinet, court of jurisdiction, and guardian ad litem, if applicable; and*
- (19) *Raise his or her child and make decisions on behalf of his or her child unless a health or safety risk is determined by the cabinet or due to the treatment needs of the youth.*

➔Section 21. The Kentucky Personnel Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A within 30 days of the effective date of this Act to require the Kentucky Employees Charitable Campaign to include the child victims' trust fund established pursuant to KRS 41.400 as a participating charitable organization.

➔Section 22. Whereas Kentucky has led the nation in child abuse and neglect for three consecutive years and the need to protect children and preserve families is of great public concern, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

**Signed by Governor April 1, 2022.**