

CHAPTER 68

(SB 71)

AN ACT relating to health services.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *Except where prohibited by federal law, any substance use disorder program that is authorized or regulated under this chapter or holds a chemical dependency treatment services license under KRS 222.231 that was issued in accordance with KRS 216B.042, or a recovery residence as defined in KRS 222.500, shall, for any resident who wishes to leave the treatment program, either:*
 - (a) *Obtain agreement from the resident's family member, guardian, or emergency contact to personally transport the resident within twenty-four (24) hours; or*
 - (b) *Make available transportation services.*
- (2) *Transportation services may include providing the resident access to:*
 - (a) *A ride-sharing service and purchasing a one (1) way service to:*
 1. *A specific address in the resident's hometown of record; or*
 2. *The city hall in the resident's hometown of record;*
 - (b) *Public transportation, including but not limited to transporting the resident to the nearest commercial bus station and purchasing a ticket to the resident's hometown of record; or*
 - (c) *Other transportation to a safe place as determined by the facility to be therapeutically appropriate.*
- (3) *The facilities described in subsection (1) of this section and law enforcement officers shall only transport residents leaving the facility to public transportation locations, the location to meet the driver of a ride-sharing service, or other safe place as determined by the facility to be therapeutically appropriate.*
- (4) (a) *If a resident required by court order to attend a treatment facility described in subsection (1) of this section leaves the facility prior to court approval or prior to completing the conditions of the court order, the treatment facility shall notify the court, Commonwealth's or county attorney, local law enforcement, and emergency contact or court-designated individual of the resident's exit if permitted by:*
 1. *The Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191;*
 2. *42 C.F.R. pt. 2; and*
 3. *Other applicable state and federal patient privacy laws.*
- (b) *A probation officer or peace officer, acting on information provided by a treatment facility under paragraph (a) of this subsection, who observes the resident violate the terms of his or her probation, conditional discharge, or release, or violate the terms of any court order may arrest the resident without a warrant and incarcerate the resident until the judge who made the initial court order holds a hearing on the resident's violation of that court order.*
- (5) *Any substance use disorder program that is authorized or regulated under this chapter or that holds a chemical dependency treatment services license under KRS 222.231 that was issued in accordance with KRS 216B.042, or a recovery residence as defined in KRS 222.500, shall provide full disclosure of the specific services provided by the substance use disorder program to any potential patients and in any advertisements or other solicitations.*
- (6) *A facility that does not hold a chemical dependency treatment services license under KRS 222.231 that was issued in accordance with KRS 216B.042, is not a substance use disorder program that is authorized or regulated under this chapter, and is not a recovery residence as defined in KRS 222.500 shall be exempt from this section.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *To the extent allowed by federal law, any substance use disorder program that is authorized or regulated under this chapter or holds a chemical dependency treatment services license under KRS 222.231 that was issued in accordance with KRS 216B.042, or a recovery residence as defined in KRS 222.500, shall:*
- (a) *Not knowingly recruit into their facility any out-of-state resident:*
 1. *If the out-of-state resident is enrolled in Medicaid; or*
 2. *With the purpose of enrolling the out-of-state resident in Medicaid in this state; and*
 - (b) *Submit to the Department for Medicaid Services a recipient's proof of Kentucky residency when submitting an initial request for Medicaid reimbursement if the facility is aware that the recipient resided in another state within the past month.*
- (2) *Any substance use disorder program that is authorized or regulated under this chapter or holds a chemical dependency treatment services license under KRS 222.231 that was issued in accordance with KRS 216B.042, or a recovery residence as defined in KRS 222.500, that violates subsection (1)(a) of this section shall be fined:*
- (a) *Twenty thousand dollars (\$20,000) for each offense; and*
 - (b) *Not less than five hundred dollars (\$500) for each day an out-of-state resident received Medicaid services in Kentucky.*
- (3) *To the extent allowed by federal law, any out-of-state resident found to be ineligible for Medicaid services in Kentucky as a result of failure to establish Kentucky as his or her residency shall reimburse the Department for Medicaid Services any fees paid by Medicaid on his or her behalf.*
- (4) *All enforcement actions for fines assessed under this section shall be brought on behalf of the Commonwealth by the Office of the Attorney General, and shall be filed in the county where the violation occurred or in Franklin Circuit Court.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Department" means the Department of Public Advocacy;*
 - (b) *"Qualified treatment program" means a treatment program that shall:*
 1. *Meet, at a minimum, one (1) the following requirements:*
 - a. *Meet licensure requirements and standards established by the Cabinet for Health and Family Services under KRS Chapter 222;*
 - b. *Be certified by a state affiliate of the National Alliance of Recovery Residences as a level III or IV Recovery Residence;*
 - c. *Be designated by the Kentucky Housing Corporation as a Recovery Kentucky Center;*
 - d. *Meet alternative and relevant licensure or certification criteria recognized by the cabinet or a federal agency; or*
 - e. *Be accredited by at least one (1) of the following:*
 - i. *American Society of Addiction Medicine (ASAM);*
 - ii. *Joint Commission on Accreditation of Healthcare Organizations;*
 - iii. *Commission on Accreditation of Rehabilitation Facilities (CARF);*
 - iv. *The Council on Accreditation; or*
 - v. *Other accreditations, certifications, or standards recognized by the Cabinet for Health and Family Services; and*
 2. *If providing medical or clinical behavioral health services, be enrolled as a Medicaid-approved provider or enrolled with a private insurer and be eligible to bill and receive reimbursement for behavioral health services;*
 3. *Have at least two (2) years of experience as an agency administering evidence-based substance use disorder treatment services and recovery support services; and*

4. *Provide or have a protocol to refer clients to agencies or prescribers that provide medications for opioid use disorder, including but not limited to methadone, buprenorphine, or naltrexone; and*
- (c) *"Treatment program" means any substance use program licensed, regulated, or defined in KRS Chapter 222 and a substance use disorder program that holds a chemical dependency treatment services license under KRS 222.231 that was issued in accordance with KRS 216B.042.*
- (2) *The cabinet shall publish a list on the cabinet's website of all qualified treatment programs in the state and shall provide the list to the department and to the Administrative Office of the Courts.*
- (3) *Any employee of the Commonwealth who makes a recommendation to a court in a criminal case for an alternative sentence that includes services to address an individual's substance use disorder shall be required to prioritize referrals to a qualified treatment program by the cabinet. If the employee recommends probation, conditional discharge, or an alternative sentence that includes services that are to be provided by a facility or provider that is not a qualified treatment program, the employee shall inform the court in writing or on the record of the alternative sentencing plan and the reason for not including services provided by a qualified treatment program.*
- (4) *By January 1, 2025, the cabinet shall promulgate regulations in accordance with KRS Chapter 13A to require a treatment program or a premise, place, or building that holds itself out as a treatment program for recovery from the use of intoxicating substances to clearly and conspicuously provide full disclosure of the specific services provided by the treatment program to any potential residents and in any advertisements or other solicitations. The disclosure shall clearly and conspicuously include the level of care provided by the treatment program regarding the following:*
- (a) *Provision of room and board;*
- (b) *Level of medical services;*
- (c) *Level of clinical services;*
- (d) *Staffing; and*
- (e) *Accreditation.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *A person or provider shall not:*
- (a) *Knowingly and willfully solicit or receive any remuneration, including but not limited to kickbacks, bribes, or rebates, either directly or indirectly, overtly or covertly, in cash or in kind, or in return for referring a resident to a treatment program as defined in Section 3 of this Act; or*
- (b) *Pay or offer any remuneration, including but not limited to kickbacks, bribes, or rebates directly or indirectly, overtly or covertly, in cash or in kind:*
1. *To induce a referral of an individual to a treatment program; or*
2. *In exchange for an individual using the services of that treatment program.*
- (2) *Any conduct or activity that is protected under the provisions of 18 U.S.C. sec. 220(b), as amended, or federal regulations promulgated under that section, shall not be deemed to violate this section and the conduct or activity shall be afforded the same protections allowed under federal law and regulation.*
- (3) *Any conduct by any individual or provider which violates 18 U.S.C. sec. 220(b), as amended, shall be deemed to violate this section.*
- (4) *Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor for each offense unless the aggregation of value of the benefit received is valued at one thousand dollars (\$1,000) or more, in which case it shall be a Class D felony.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 31 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Alternative sentencing worker" means an employee of the department who develops an alternative sentencing plan in lieu of incarceration for individuals who suffer from substance use disorder;*

- (b) *"Qualified treatment program" has the same meaning as in Section 3 of this Act; and*
- (c) *"Treatment program" has the same meaning as in Section 3 of this Act.*
- (2) *Upon a motion by the defendant or upon the court's own motion with the defendant's consent, the court may issue an order for pretrial release pending an assessment for a mental health or substance use disorder. The prosecutor shall be given an opportunity to object to the issuance of the order or to recommend specific conditions for the release.*
- (3) *Upon entry of the order, the defendant, the department, or the defendant's retained counsel shall ensure that a needs assessment is conducted within forty-eight (48) hours, or as soon thereafter as practicable, by an alternative sentencing worker, or, upon consent and request of counsel, a qualified health professional as defined in KRS 222.005.*
- (4) (a) *After the assessment, a release plan shall be developed and submitted to the court and Commonwealth's or county attorney as soon as practicable.*
 (b) *A treatment plan developed by a qualified health professional who is employed by a treatment program other than a community mental health center shall not include in the treatment plan, services that are to be provided exclusively by the qualified health professionals employing treatment program.*
- (5) *The court may approve the plan without a hearing or schedule a hearing.*
- (6) *The court may order as a condition of release completion of the treatment plan. The defendant shall execute a valid release permitting a facility or service provider to report to the court if the defendant ceases to participate in a service that has been ordered.*
- (7) *In recommending services in alternative sentencing plans, the department or defense counsel shall consider all appropriate and competent facilities as enumerated on the qualified treatment program list maintained by the cabinet pursuant to Section 3 of this Act and treatment programs and shall not discriminate against any facility or program based on religious content in a program, except that the department or defense counsel may recommend facilities or programs that are consistent with a client's personal religious beliefs or nonbelief. The department or defense counsel shall not knowingly recommend treatment or services that are inconsistent with or violate a client's personal religious beliefs or nonbelief without the consent of the client.*

➔Section 6. KRS 31.030 (Effective July 1, 2024) is amended to read as follows:

The authority and duties of the Department of Public Advocacy shall include but are not limited to:

- (1) Administering the statewide public advocacy system created by this chapter or by any other appropriate legislation or court decision;
- (2) Developing and promulgating standards and administrative regulations, rules, and procedures for administration of the defense of indigent defendants in criminal cases that the public advocate, statutes, or the courts determine are subject to public assistance;
- (3) Determining necessary personnel for the department and appointing staff attorneys, who shall be "assistant public advocates," and non-lawyer assistants within the merit system, subject to available funding and employee allotments;
- (4) Maintaining and exercising control over the department's information technology system, and working with the Commonwealth Office of Technology to ensure that the department's information technology is in conformity with the requirements of state government;
- (5) Conducting research into, and developing and implementing methods of, improving the operation of the criminal justice system with regard to indigent defendants and other defendants in criminal actions, including participation in groups, organizations, and projects dedicated to improving representation of defendants in criminal actions in particular, or the interests of indigent or impoverished persons in general;
- (6) Issuing rules, promulgating administrative regulations, and establishing standards as may be reasonably necessary to carry out the provisions of this chapter, the decisions of the United States Supreme Court, the decisions of the Kentucky Supreme Court, Court of Appeals, and other applicable court decisions or statutes;
- (7) Being authorized to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of persons with disabilities;

- (8) Being authorized to purchase liability insurance for the protection of all full-time public advocates, deputy public advocates, and assistant public advocates to protect them from liability for malpractice arising in the course or scope of employment and for the protection of attorneys with whom the Department of Public Advocacy contracts to protect them from liability for malpractice arising in the course or scope of the contract;
- (9) Being authorized to seek and apply for and solicit funds for the operation of the defense of indigent persons or protection of the persons with disabilities programs from any source, public or private, and to receive donations, grants, awards, and similar funds from any legal source. Those funds shall be placed in a special account for the Department of Public Advocacy and those funds shall not lapse;
- (10) Being authorized to assign an attorney, including a conflict attorney under a plan, for good cause, at any stage of representation, including trial, appeal, or other post-conviction or post-disposition proceeding, including discharge revocation hearings, preliminary parole revocation hearings, and conditional discharge revocation hearings, regardless of whether the hearings are conducted by constitutional judges or executive branch administrative law judges;
- (11) Filing with the Legislative Research Commission an annual report, by September 30 of each year, setting forth the total number of cases assigned to the department, the average number of cases per department attorney, all funding available to the department, the average amount of state funds expended per assigned case, and any other information requested by the Legislative Research Commission or that the public advocate finds necessary to inform the General Assembly, the judicial or executive branches, or the public of the activities conducted by the department during the previous fiscal year; and
- (12) Do other activities and institute other programs as necessary to carry out the provisions of this chapter, or those decisions or statutes which are the subject of this section.
- (13) (a) ***Within sixty (60) days of the end of each fiscal year, the department shall submit to the cabinet and the Legislative Research Commission for referral to the Interim Joint Committees on Judiciary and Families and Children a report detailing:***
1. ***The number of alternative sentencing plans submitted to courts that recommended treatment by providers that were non-qualified treatment programs;***
 2. ***A breakdown of the number of such plans that were approved, denied, or amended by the courts; and***
 3. ***A listing of all treatment programs recommended that did not meet the requirements of a qualified treatment program.***
- (b) ***As counsel appointed to provide legal representation to an individual under KRS Chapter 31, the department or defense counsel serves at the direction or request of the represented individual and may make recommendations for substance abuse treatment services from a treatment provider that is not a qualified treatment program but shall adhere to the reporting requirements in subsection (3) of Section 3 of this Act.***
- (14) ***Alternative sentencing workers as defined in Section 5 of this Act shall be required to:***
- (a) ***Obtain a minimum of twelve (12) hours of continuing education pertaining to substance use disorder; and***
 - (b) ***Comply with Section 4 of this Act.***

➔Section 7. KRS 205.200 is amended to read as follows:

- (1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he or she has made a proper application or an application has been made on his or her behalf in the manner and form prescribed by administrative regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.
- (2) The secretary shall, by administrative regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the Social Security Act, its amendments, and other federal acts and regulations. The secretary shall also promulgate administrative regulations to allow for between a forty percent (40%) and a forty-five percent (45%) ratable reduction in the method of calculating eligibility and benefits for public assistance under Title IV-A of the Federal Social Security Act. In no instance shall grants to

families with no income be less than the appropriate grant maximum used for public assistance under Title IV-A of the Federal Social Security Act. As used in this section, "ratable reduction" means the percentage reduction applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

- (3) The secretary may by administrative regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by administrative regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.
- (4) The secretary may by administrative regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the public assistance under Title IV-A of the Federal Social Security Act program.
- (5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his or her own behalf or in the behalf of others with the intent and purpose of creating eligibility for the assistance.
- (6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of public assistance under Title IV-A of the Federal Social Security Act in respect to a child who has been deserted or abandoned by a parent.
- (7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he *or she* refuses without good cause:
 - (a) To register for employment with the state employment service,
 - (b) To accept suitable training, or
 - (c) To accept suitable employment.

The secretary may prescribe by administrative regulation, subject to the provisions of KRS Chapter 13A, standards of suitability for training and employment.

- (8) To the extent permitted by federal law, scholarships, grants, or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.
- (9) To the extent permitted by federal law, any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to "Agent Orange" by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam shall not be considered as income for the purpose of determining eligibility or continuing eligibility for public assistance and shall not be subject to a lien or be available for repayment to the Commonwealth for public assistance received by the recipient.
- (10)
 - (a) For the purpose of determining eligibility for medical assistance under Title XIX of the Social Security Act, unless otherwise required by federal law, the cabinet shall only accept self-attestation of income, residency, age, household composition, caretaker or relative status, or receipt of other coverage as verification of last resort prior to enrollment, and the cabinet shall not request federal authorization or approval to waive or decline to periodically check any available income-related data source to verify eligibility.
 - (b) This subsection shall not apply to any individual who is a resident of an assisted living community as defined in KRS 194A.700 or to a long-term care facility as defined in KRS 216A.010 or hospital licensed under KRS Chapter 216B that is using self-attestation to determine presumptive eligibility.
 - (c) If an individual for medical assistance under Title XIX of the Social Security Act willingly and knowingly self-attests to falsified information related to income, residency, age, household composition, caretaker or relative status, or receipt of other coverage, the cabinet may fine the individual not more than five hundred dollars (\$500) per offense.
- (11) When determining whether an applicant for services or assistance provided under this chapter meets the applicable income eligibility guidelines, the cabinet shall use the most recent income verification data available and consider fluctuating employment income data.
- (12) If in the normal course of operations, the cabinet finds that an individual has trafficked, sold, distributed, given, or otherwise transferred an electronic benefit transfer card issued by the department for money, service, or other valuable consideration, the cabinet, to the extent permitted under state and federal law:

- (a) Shall through any means practical, including but not limited to garnishment of future cash assistance benefits, seek recoupment from the individual of any cash benefits trafficked, sold, distributed, given, or otherwise transferred; and
 - (b) May:
 - 1. Upon the first violation, deem the individual ineligible for all public assistance programs administered by the cabinet under this chapter for a period of not more than six (6) months;
 - 2. Upon the second violation, deem the individual ineligible for all public assistance programs administered by the cabinet under this chapter for a period of not more than twelve (12) months; and
 - 3. Upon the third violation, deem the individual ineligible for all public assistance programs administered by the cabinet under this chapter for a period of not more than five (5) years.
- (13) (a) Notwithstanding any other provision of Kentucky law, the following shall be disregarded for the purposes of determining an individual's eligibility for a means-tested public assistance program, and the amount of assistance or benefits the individual is eligible to receive under the program:
- 1. Any amount in an ABLE account;
 - 2. Any contributions to an ABLE account; and
 - 3. Any distribution from an ABLE account for qualified disability expenses.
- (b) For purposes of this subsection:
- 1. "ABLE account" means an account established within any state having a qualified ABLE program as provided in 26 U.S.C. sec. 529A, as amended;
 - 2. "Kentucky law" includes:
 - a. All provisions of the Kentucky Revised Statutes;
 - b. Any contract to provide Medicaid managed care established pursuant to this chapter;
 - c. Any agreement to operate a Medicaid program established pursuant to this chapter; and
 - d. Any administrative regulation promulgated pursuant to this chapter; and
 - 3. "Qualified disability expenses" means expenses described in 26 U.S.C. sec. 529A of a person who is the beneficiary of an ABLE account.
- (14) (a) ***Residency shall not be established for an individual if the individual relocates to Kentucky with the sole intention of establishing eligibility to receive medical services, including substance use disorder treatment services under this chapter.***
- (b) ***An individual may rebut the sole intention of paragraph (a) of this subsection by showing proof of residency. Proof of residency shall include but not be limited to the possession of a valid Kentucky operator's license or a copy of a deed or property tax bill, utility agreement or bill, or rental housing agreement.***

➔Section 8. KRS 202A.011 is amended to read as follows:

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

- (1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;
- (2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;
- (3) "Cabinet" means the Kentucky Cabinet for Health and Family Services;
- (4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

- (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill persons or individuals with an intellectual disability, who have been charged with or convicted of a felony;
- (6) "Hospital" means:
 - (a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health and Family Services as equipped to provide full-time residential care and treatment for mentally ill persons or individuals with an intellectual disability; or
 - (b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill persons or individuals with an intellectual disability;
- (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;
- (8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;
- (9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;
- (10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;
- (11) "Petitioner" means a person who institutes a proceeding under this chapter;
- (12) "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, 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 is currently 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;
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a 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;
 - (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 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 community program for mental health and individuals with an intellectual disability;

- (g) A professional counselor credentialed under the provisions of KRS Chapter 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 community program for mental health and individuals with an intellectual disability; 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;
- (13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;
- (14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill person or an individual with an intellectual disability;~~and~~
- (15) "Secretary" means the secretary of the Cabinet for Health and Family Services; *and*
- (16) ***"Contract mental health evaluator" means a qualified mental health professional who is employed by or under contract with a community mental health center, crisis stabilization unit, mental institution, or any other facility designated by the secretary to provide mental health evaluations to determine whether an individual meets the criteria for involuntary hospitalization.***

➔Section 9. KRS 202A.041 is amended to read as follows:

- (1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family, or others if not restrained ~~may~~~~shall~~ take the individual into custody and transport the individual without unnecessary delay to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation to be conducted by a ***contract mental health evaluator***~~[qualified mental health professional]~~. Upon transport of the person to the hospital or psychiatric facility, the peace officer shall provide written documentation which describes the behavior of the person which caused the peace officer to take the person into custody. If, after evaluation, the ***contract mental health evaluator***~~[qualified mental health professional]~~ finds that the person does not meet the criteria for involuntary hospitalization, the person shall be released immediately and transported back to the person's home county by an appropriate means of transportation as provided in KRS 202A.101. If, after evaluation, the ***contract mental health evaluator***~~[qualified mental health professional]~~ finds that the person meets the criteria for involuntary

hospitalization, appropriate proceedings under this chapter shall be initiated. The person may be held pending certification by a **contract mental health evaluator**~~[qualified mental health professional]~~ and implementation of procedures as provided in KRS 202A.028, 202A.031, or 202A.051 for a period not to exceed eighteen (18) hours.

- (2) *When a peace officer has custody of an individual at a post, sheriff's office, or police department pursuant to this section, and is required to maintain custody of the individual for more than three (3) hours after requesting evaluation by a contract mental health evaluator designated by the cabinet to conduct evaluations prior to admission to a hospital or psychiatric facility, state compensation shall be reduced by five percent (5%) for every ten (10) minutes the sheriff or other peace officer with custody over the person is required to remain with the person after first delay of contact as documented by the sheriff or other peace officer.*

- (3)~~(2)~~ If, after the evaluation, the **contract mental health evaluator**~~[qualified mental health professional]~~ finds that the person does not meet the criteria for involuntary hospitalization and the peace officer has probable cause to believe that the person has committed a criminal offense, the peace officer may swear out a warrant and take the arrested person without unnecessary delay before a judge.

➔Section 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Signed by Governor April 4, 2024.