

## CHAPTER 135

( HB 436 )

AN ACT relating to guardians ad litem.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

- (1) *Any petition filed under KRS 456.030 on behalf of a minor who is an alleged victim of dating violence and abuse, sexual assault, or stalking, or in which a minor is named as a respondent or petitioner, shall comply with the requirements in that section and shall:*
  - (a) *Proceed in accordance with the procedural safeguards under KRS 610.070; and*
  - (b) *Conform to the confidentiality provisions under KRS 610.340.*
- (2) *If the court orders an evidentiary hearing under KRS 456.040(1)(a), a guardian ad litem shall be appointed for any unrepresented minor who is a respondent to the action or a petitioner who is an alleged victim of dating violence and abuse, sexual assault, or stalking. The guardian ad litem shall be paid a fee fixed by the court not to exceed five hundred dollars (\$500), which shall be paid by the Finance and Administration Cabinet.*
- (3) *Violation of the terms or conditions of an order of protection issued under KRS 456.060 after the person has been served or given notice of the order shall constitute contempt of court and may constitute a criminal offense pursuant to KRS 456.180 if the offender is an adult or a public offense under KRS 600.020(51) if the offender is a juvenile. Once a juvenile action or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.*
- (4) *Nothing in subsection (3) of this section shall preclude the Commonwealth from proceeding, or the petitioner from pursuing charges, against the minor respondent for offenses other than a violation of an order of protection. Proceedings against a minor respondent for offenses other than a violation of an order of protection shall proceed:*
  - (a) *In the juvenile session of District Court; and*
  - (b) *In accordance with the procedural and statutory provisions established for the juvenile session of District Court.*

➔SECTION 2. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED TO READ AS FOLLOWS:

- (1) *Any petition filed under KRS 403.725 on behalf of a minor who is alleged to be a victim of domestic violence and abuse, or in which a minor is named as a respondent or petitioner, shall comply with the requirements in that section and shall:*
  - (a) *Proceed in accordance with the procedural safeguards under KRS 610.070; and*
  - (b) *Conform to the confidentiality provisions under KRS 610.340.*
- (2) *If the court orders an evidentiary hearing under KRS 403.730(1)(a), a guardian ad litem shall be appointed for any unrepresented minor who is a respondent to the action or a petitioner who is an alleged victim of domestic violence and abuse. The guardian ad litem shall be paid a fee fixed by the court not to exceed five hundred dollars (\$500), which shall be paid by the Finance and Administration Cabinet.*
- (3) *Violation of the terms or conditions of an order of protection issued under KRS 403.740 after the person has been served or given notice of the order shall constitute contempt of court and may constitute a criminal offense pursuant to KRS 403.763 if the offender is an adult or a public offense under KRS 600.020(51) if the offender is a juvenile. Once a juvenile action or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.*
- (4) *Nothing in subsection (3) of this section shall preclude the Commonwealth from proceeding, or the petitioner from pursuing charges, against the minor respondent for offenses other than a violation of an order of protection. Proceedings against a minor respondent for offenses other than a violation of an order of protection shall proceed:*

- (a) *In the juvenile session of District Court; and*
- (b) *In accordance with the procedural and statutory provisions established for the juvenile session of District Court.*

➔Section 3. KRS 26A.140 is amended to read as follows:

- (1) Courts shall implement measures to accommodate the special needs of children which are not unduly burdensome to the rights of the defendant, including, but not limited to:
  - (a) Trained guardians ad litem or special advocates, if available, shall be appointed for all child victims and shall serve in Circuit and District Courts to offer consistency and support to the child and to represent the child's interests where needed.
  - (b) ***The guardians ad litem shall be paid a fee fixed by the court, which shall be paid by the Finance and Administration Cabinet.***
  - (c)~~(b)~~ During trials involving child victims or child witnesses, the environment of the courtroom shall be modified to accommodate children through the use of small chairs, frequent breaks, and the use of age appropriate language.
  - (d)~~(c)~~ Children expected to testify shall be prepared for the courtroom experience by the Commonwealth's or county attorney handling the case with the assistance of the guardian ad litem or special advocate.
  - (e)~~(d)~~ In appropriate cases, procedures shall be used to shield children from visual contact with alleged perpetrator.
- (2) The Supreme Court is encouraged to issue rules for the conduct of criminal and civil trials involving child abuse in which a child victim or child witness may testify at the trial.

**Signed by Governor April 9, 2024.**