

AN ACT relating to substance abuse and declaring an emergency.

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

➔Section 1. KRS 72.026 is amended to read as follows:

- (1) Unless another cause of death is clearly established, in cases requiring a post-mortem examination under KRS 72.025 the coroner or medical examiner shall take a blood sample and have it tested for the presence of any controlled substances which were in the body at the time of death.
- (2) If a coroner or medical examiner determines that a drug overdose is the cause of death of a person, he or she shall provide notice of the death to:
 - (a) The state registrar of vital statistics and the Department of Kentucky State Police. The notice shall include any information relating to the drug that resulted in the overdose. The state registrar of vital statistics shall not enter the information on the deceased person's death certificate unless the information is already on the death certificate;~~and~~
 - (b) The licensing board for the individual who prescribed or dispensed the medication, if known. The notice shall include any information relating to the drug that resulted in the overdose, including the individual authorized by law to prescribe or dispense drugs who dispensed or prescribed the drug to the decedent; and
 - (c) *For coroners only, the Commonwealth's attorney and a local law enforcement agency in the circuit where the death occurred, if the death resulted from the use of a Schedule I controlled substance. The notice shall include all information as to the types and concentrations of Schedule I drugs detected.*

This subsection shall not apply to reporting the name of a pharmacist who dispensed a drug based on a prescription.

- (3) The state registrar of vital statistics shall report, within five (5) business days of the

receipt of a certified death certificate or amended death certificate, to the Division of Kentucky State Medical Examiners Office, any death which has resulted from the use of drugs or a drug overdose.

- (4) The Justice and Public Safety Cabinet in consultation with the Kentucky State Medical Examiners Office shall promulgate administrative regulations necessary to administer this section.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) The Department for Medicaid Services shall provide a substance abuse benefit consistent with federal laws and regulations which shall include a broad array of treatment options for those with heroin and other substance abuse disorders. At a minimum, these options, if affordable as determined by the department, shall include assessment, crisis residential treatment, mobile crisis treatment, outpatient treatment, intensive outpatient treatment, residential treatment, and opioid antagonist therapy.
- (2) The department shall promulgate administrative regulations to implement this section and to expand the behavioral health network to allow providers to provide services within their licensure categories.
- (3) Providers of peer-mediated, recovery-oriented, therapeutic community models of care, such as those operated by Recovery Kentucky, shall have the opportunity to contract with managed care organizations to be reimbursed for any portion of those services that are provided by licensed or certified providers in accordance with approved billing codes.
- (4) Beginning January 1, 2016, the Department for Medicaid Services shall provide an annual report to the Legislative Research Commission detailing the number of providers of substance abuse treatment, the type of services offered by each provider, the geographic distribution of providers, and a summary of

expenditures on substance abuse treatment services provided by Medicaid.

➔Section 3. KRS 217.186 is amended to read as follows:

- (1) A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a **person or agency**~~[patient]~~ who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute.
- (2) A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration.

(3) A peace officer, firefighter, paramedic, or emergency medical technician may receive a naloxone prescription, possess naloxone, and administer naloxone to an individual suffering from an apparent opiate-related overdose.

(4) A person acting in good faith who administers naloxone as the third party under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Substance abuse treatment or recovery service providers that receive state funding shall give pregnant women priority in accessing services and shall not refuse access to services solely due to pregnancy if the provider's services are appropriate for pregnant women.

➔Section 5. KRS 218A.040 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall place a substance in Schedule I if it finds that the substance:

~~(a)(1)~~ Has high potential for abuse; and

~~(b)(2)~~ Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

(2) Death resulting from an overdose of a Schedule I controlled substance is a foreseeable result of the consumption or use of the substance, and in any case pertaining to an offense in violation of KRS Chapter 507 or 507A for a death which resulted from an overdose of a Schedule I controlled substance, the court may infer that death resulting from an overdose of a Schedule I controlled substance is a foreseeable result of the consumption or use of that substance, subject to the applicable rules of evidence.

➔Section 6. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

- (1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation:
- Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrophan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacymorphan; Morpheridine; Noracymethadol; Norlevorphanol;

- Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine;
- (2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon;
- (3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic drugs; or salvia;
- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within

the specific chemical designation: gamma hydroxybutyric acid;~~and~~

- (5) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
- (a) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);
 - (b) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);
 - (c) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5B-NBOMe); or
 - (d) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe); and

(6) Any extended release single-agent formulation of hydrocodone bitartrate, including the drug Zohydro, that does not contain tamper-resistant or tamper-deterrent countermeasures as approved by the federal Food and Drug Administration.

➔Section 7. KRS 218A.1412 is amended to read as follows:

- (1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:
- (a) Four (4) grams or more of cocaine;
 - (b) Two (2) grams or more of heroin or methamphetamine;
 - (c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;
 - (d) Any quantity of lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or
 - (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of

this subsection in an amount less than the amounts specified in those paragraphs.

- (2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.
- (3) (a) Except as provided in paragraph (b) of this subsection, any person who violates the provisions of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense. *If the offense involves the defendant trafficking in one (1) or more substances containing a detectable amount of heroin, methamphetamine, or both in an aggregate amount of four (4) grams or greater, the defendant shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.*
- (b) Any person who violates the provisions of subsection (1)(e) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second offense or subsequent offense.
- (4) Upon the motion by the Commonwealth stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, a sentencing court may impose in its judgment a minimum service of time requirement less than the fifty percent (50%) standard imposed under subsection (3)(a) of this section in consideration of the following:*
- (a) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered;*
- (b) The truthfulness, completeness, and reliability of any information or*

testimony provided by the defendant;

(c) The nature and extent of the defendant's assistance;

(d) Any injury suffered by, or any danger or risk of injury to, the defendant or his family resulting from his or her assistance;

(e) The timelines of the defendant's assistance; and

(f) Any other information placed in the record by the Commonwealth.

➔Section 8. KRS 218A.1413 is amended to read as follows:

- (1) A person is guilty of trafficking in a controlled substance in the second degree when:
 - (a) He or she knowingly and unlawfully traffics in:
 1. Ten (10) or more dosage units of a controlled substance classified in Schedules I and II that is not a narcotic drug; or specified in KRS 218A.1412, and which is not a synthetic drug, salvia, or marijuana; or
 2. Twenty (20) or more dosage units of a controlled substance classified in Schedule III;
 - (b) He or she knowingly and unlawfully prescribes, distributes, supplies, or sells an anabolic steroid for:
 1. Enhancing human performance in an exercise, sport, or game; or
 2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity; or
 - (c) He or she knowingly and unlawfully traffics in any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amounts specified in that paragraph.
- (2) (a) Except as provided in paragraph (b) of this subsection, any person who violates the provisions of subsection (1) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(c) of this section shall be guilty of:

1. A Class D felony for the first offense, except that KRS 532.060~~[Chapter 532]~~ to the contrary notwithstanding, the ~~maximum~~ sentence to be imposed shall be one (1) to~~no greater than~~ three (3) years; and
2. A Class D felony for a second offense or subsequent offense.

➔Section 9. KRS 218A.1414 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the third degree when he or she knowingly and unlawfully traffics in:

- (a) Twenty (20) or more dosage units of a controlled substance classified in Schedules IV or V; or
- (b) Any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amount specified in that paragraph.

(2) (a) Any person who violates the provisions of subsection (1)(a) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense, unless the offense involves trafficking in one hundred twenty (120) or more dosage units, in which case any offense shall be a Class D felony.

(b) Any person who violates the provisions of subsection (1)(b) of this section shall be guilty of:

1. A Class A misdemeanor for the first offense, subject to the imposition of presumptive probation; and
2. A Class D felony for a second or subsequent offense, except that KRS 532.060~~[Chapter 532]~~ to the contrary notwithstanding, the ~~maximum~~ sentence to be imposed shall be one (1) to~~no greater than~~ three (3) years.

➔Section 10. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

- (1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

It includes but is not limited to:

- (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for

- use, or designed for use in compounding controlled substances;
- (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
 - (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
 - (k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
 - (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.
- (2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.
- (3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant,

propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

- (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (5) *This section shall not prohibit a local health department from operating, with the express approval of its board, a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes. Items exchanged through the program shall not be deemed drug paraphernalia under this section.*
- (6) (a) *Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may ask the person whether the person is in possession of a hypodermic needle or other sharp object that may cut or puncture the officer or whether a hypodermic needle or other sharp object is on the premises or in the vehicle to be searched.*
- (b) *If there is a hypodermic needle or other sharp object on the person, on the person's premises, or in the person's vehicle, and the person alerts the officer of that fact prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.*
- (c) *The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.*

(Z) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔Section 11. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:

- (a) A capital offense;
- (b) A Class A felony;
- (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
- (d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;
- (e) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
- (f) Use of a minor in a sexual performance as described in KRS 531.310;
- (g) Promoting a sexual performance by a minor as described in KRS 531.320;
- (h) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
- (i) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
- (j) Criminal abuse in the first degree as described in KRS 508.100;
- (k) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
- (l) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
- (m) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3) (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.
- (b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.
- (c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.
- (d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A where the victim of the offense died as the result of an overdose of a Schedule I controlled substance and**

who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.

- (4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

➔Section 12. KRS 501.060 is amended to read as follows:

- (1) Conduct is the cause of a result when it is an antecedent without which the result in question would not have occurred.
- (2) When intentionally causing a particular result is an element of an offense, the element is not established if the actual result is not within the intention or the contemplation of the actor unless:
 - (a) The actual result differs from that intended or contemplated, as the case may

- be, only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or more extensive; or
- (b) The actual result involves the same kind of injury or harm as that intended or contemplated and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.
- (3) When wantonly or recklessly causing a particular result is an element of an offense, the element is not established if the actual result is not within the risk of which the actor is aware or, in the case of recklessness, of which he should be aware unless:
- (a) The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or
- (b) The actual result involves the same kind of injury or harm as the probable result and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.
- (4) The question of whether an actor knew or should have known the result he caused was rendered substantially more probable by his conduct is an issue of fact.
- (5) In any case pertaining to an offense in violation of KRS Chapter 507 or 507A for a death which resulted from an overdose of a Schedule I controlled substance, the court may infer that death resulting from an overdose of a Schedule I controlled substance is a foreseeable result of the consumption or use of that substance, subject to the applicable rules of evidence.**

➔Section 13. KRS 625.050 is amended to read as follows:

- (1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ..., a child."
- (2) The petition shall be filed in the Circuit Court for any of the following counties:

- (a) The county in which either parent resides or may be found;
 - (b) The county in which juvenile court actions, if any, concerning the child have commenced; or
 - (c) The county in which the child involved resides or is present.
- (3) Proceedings for involuntary termination of parental rights may be initiated upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or Commonwealth's attorney or parent.
- (4) The petition for involuntary termination of parental rights shall be verified and contain the following:
- (a) Name and mailing address of each petitioner;
 - (b) Name, sex, date of birth and place of residence of the child;
 - (c) Name and address of the living parents of the child;
 - (d) Name, date of death and cause of death, if known, of any deceased parent;
 - (e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;
 - (f) Name and address of the person, cabinet or agency having custody of the child;
 - (g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred;
 - (h) Statement that the person, cabinet or agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;
 - (i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;
 - (j) Information as to the legal status of the child and the court so adjudicating;
and
 - (k) A concise statement of the factual basis for the termination of parental rights.
- (5) No petition may be filed under this section prior to five (5) days after the birth of

the child.

(6) No petition may be filed to terminate the parental rights of a woman solely because of her use of a controlled substance during pregnancy if she, by the twentieth week of her pregnancy, enrolls in and maintains compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy.

➔Section 14. KRS 222.005 is amended to read as follows:

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

- (1) "Administrator" means the person or the designee of the person, in charge of the operation of an alcohol and other drug abuse prevention, intervention, or treatment program;
- (2) "Agency" means a legal entity operating hospital-based or nonhospital-based alcohol and other drug abuse prevention, intervention, or treatment programs;
- (3) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:
 - (a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;
 - (b) Use in situations which are potentially physically hazardous;
 - (c) Loss of control over the use of alcohol or other drugs or both; and
 - (d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both;
- (4) "Cabinet" means the Cabinet for Health and Family Services;
- (5) "Director" means the director of the Division of Behavioral Health of the Department for Behavioral Health, Developmental and Intellectual Disabilities;

- (6) "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical;
- (7) "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function;
- (8) "Juvenile" means any person who is under the age of eighteen (18);
- (9) "Narcotic treatment program" means a substance abuse program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group;
- (10) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900;
- (11) "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program;
- (12) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating alcohol and other drug abuse problems;
- (13) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (14) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from alcohol and other drug abuse. "Treatment" includes those services provided by the cabinet in KRS 222.211 and, in KRS 222.430 to 222.437, it specifically includes the services described in KRS 222.211(1)(c) and (d);~~and~~
- (15) "Qualified health professional" has the same meaning as qualified mental health professional in KRS 202A.011, except that it also includes an alcohol and drug counselor certified under KRS Chapter 309; ***and***

(16) "Incapacitated by drug abuse" means that the person as a result of use of any substance classified as a Schedule I drug under KRS 218A.050, excluding marijuana, has impaired judgment resulting in that person being incapable of realizing that there are serious and highly probable risks to health and safety involved in refusing treatment and making a rational decision with respect to the need for treatment.

➔Section 15. KRS 222.431 is amended to read as follows:

No person suffering from alcohol and other drug abuse shall be ordered to undergo treatment unless that person:

- (1) Suffers from alcohol and other drug abuse;
- (2) Presents an imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse, or there exists a substantial likelihood of such a threat in the near future **or is incapacitated by drug abuse as defined in Section 14 of this Act;** and
- (3) Can reasonably benefit from treatment.

➔Section 16. KRS 222.433 is amended to read as follows:

- (1) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.
- (2) **(a)** If, after reviewing the allegations contained in the petition **and any previous drug assessments or drug tests conducted with the respondent by qualified health professionals within the past six (6) months,** and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:

1.[(a)] Set a date for a hearing within fourteen (14) days to determine if there is probable cause to believe the respondent should be ordered to undergo treatment for alcohol and other drug abuse;

~~2.(b)~~ Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and

~~3.(c)~~ Cause the respondent to be examined no later than twenty-four (24) hours before the hearing date by two (2) qualified health professionals, at least one (1) of whom is a physician. The qualified health professionals shall certify their findings to the court within twenty-four (24) hours of the examinations; and

(b) If the respondent fails to adequately participate in this examination, the court shall accept any previous drug assessments or drug tests conducted with the respondent by qualified health professionals within the past six (6) months as findings to the court.

- (3) If, upon completion of the hearing, the court finds the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition or otherwise agreed to at the hearing. Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.
- (4) If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed.

➔Section 17. The Cabinet for Health and Family Services is encouraged to study the advantages and disadvantages of:

- (1) Requiring the Medicaid program and private insurers to pay for one year

postpartum medication-assisted treatment for women with heroin and other opioid addiction;

(2) Continuing medication-assisted treatment indefinitely and only discontinuing at the discretion of the patient, physician, and treatment team; and

(3) Establishing a mechanism to direct heroin and other opioid-addicted postpartum women into treatment facilities instead of the judicial system unless the patient is already incarcerated.

➔Section 18. The Cabinet for Health and Family Services is encouraged to study the feasibility of and, if warranted, establish a physician-led committee composed of diverse regional, state, and national experts to assist in the development of evidence-based medical management standards to treat the disease of addiction in the Commonwealth and assist in developing overdose prevention and reaction protocols.

➔Section 19. The Cabinet for Health and Family Services is encouraged to study and develop guidelines for the development and implementation of county and regional level wraparound teams for heroin and other opioid addiction that utilize physicians, social workers, and treatment and recovery professionals. The cabinet is encouraged to include the use of state qualified mental health facilities; treatment plans that utilize nonaddictive and nondivertible medication-assisted treatment to be continued indefinitely, and only discontinued at the discretion of the patient, physician, and treatment team; peer support services as necessary to overcome barriers to treatment; and cognitive and behavioral therapy.

➔Section 20. The Cabinet for Health and Family Services is encouraged to collaborate with all medical schools and medical-related post-graduate training programs in Kentucky, including nursing schools, to include a minimum of ten hours of coursework on the disease of addiction for all medical professionals providing direct patient care, including but not limited to physicians, registered nurse practitioners, registered nurses, and physical therapists.

➔Section 21. The Cabinet for Health and Family Services is encouraged to work with the licensing boards for medical and allied health professionals in Kentucky to increase continuing education units, at least to two units every two years, that focus on the disease of addiction.

➔Section 22. The Cabinet for Health and Family Services is encouraged to make any recommendations for legislation related to substance abuse to the Interim Joint Committee on Health and Welfare by November 30, 2015.

➔Section 23. The Department of Criminal Justice Training is encouraged to develop and offer voluntary regionalized in-service training on the topic of heroin for law enforcement officers employed by agencies that utilize Department of Criminal Justice Training basic training for their recruits, including instructional material on the detection and interdiction of heroin trafficking, the dynamics of heroin abuse, and available treatment options for addicts.

➔Section 24. Whereas the illegal substances addressed in this Act pose a clear and present danger to the health and safety of Kentucky's citizens and no just cause exists for delay, an emergency is declared to exist, and Sections 3, 5, 7, 11, and 12 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.