

1 AN ACT relating to civil actions.

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

3 ➔Section 1. KRS 222.431 is amended to read as follows:

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

6 (1) Suffers from alcohol and other drug abuse;

7 (2) Presents an imminent threat of danger to self, family, or others as a result of alcohol  
8 and other drug abuse, or there exists a substantial likelihood of such a threat in the  
9 near future; and

10 (3) Can reasonably benefit from treatment ***in accordance with a qualified health***  
11 ***professional's recommendation.***

12 ➔Section 2. KRS 222.432 is amended to read as follows:

13 (1) Proceedings for ***up to one (1) year***~~[sixty (60) days or three hundred sixty (360)~~  
14 ~~days]~~ of treatment for an individual suffering from alcohol and other drug abuse  
15 shall be initiated by the filing of a verified petition in District Court ***in the county in***  
16 ***which the individual resides on a permanent or temporary basis.***

17 (2) The petition and all subsequent court documents shall be entitled: "In the interest of  
18 (name of respondent)."

19 (3) The petition shall be filed by a spouse, relative, friend, or guardian of the individual  
20 concerning whom the petition is filed.

21 (4) The petition shall set forth:

22 (a) Petitioner's relationship to the respondent;

23 (b) Respondent's name, residence, ***if known,*** and current location, if known;

24 (c) The name and residence of respondent's parents, if living and if known, or  
25 respondent's legal guardian, if any and if known;

26 (d) The name and residence of respondent's husband or wife, if any and if known;

27 (e) The name and residence of the person having custody of the respondent, if

1 any, or if no such person is known, the name and residence of a near relative  
2 or that the person is unknown; and

3 (f) Petitioner's belief, including the factual basis therefor, that the respondent is  
4 suffering from an alcohol and other drug abuse disorder and presents a danger  
5 or threat of danger to self, family, or others if not treated for alcohol or other  
6 drug abuse.

7 **(5) (a)** Any petition filed pursuant to this **section**~~[subsection]~~ shall be accompanied  
8 by a guarantee, signed by the petitioner or other person authorized under  
9 subsection (3) of this section, obligating that person to pay all costs for  
10 **evaluation and** treatment of the respondent for alcohol and other drug abuse  
11 that is ordered by the court **and not covered by a third-party payor pursuant**  
12 **to Section 7 of this Act.**

13 **(b) Notwithstanding paragraph (a) of this subsection, if an evaluation or**  
14 **treatment is available at no cost to the respondent and the respondent**  
15 **receives the services at no cost, the petitioner shall not be obligated to pay**  
16 **what the evaluation or treatment would have cost.**

17 **(c) No petitioner shall be required to place a deposit with the court to cover the**  
18 **costs of evaluation or treatment.**

19 ➔Section 3. KRS 222.433 is amended to read as follows:

20 (1) Upon receipt of the petition, the court shall examine the petitioner under oath as to  
21 the contents of the petition.

22 (2) If, after reviewing the allegations contained in the petition and examining the  
23 petitioner under oath, it appears to the court that there is probable cause to believe  
24 the respondent should be ordered to undergo treatment, then the court shall:

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

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

6 (c) 1. Cause the respondent to be examined no later than twenty-four (24)  
 7 hours before the hearing date by two (2) qualified health professionals  
 8 chosen by the petitioner, at least one (1) of whom is a physician. The  
 9 qualified health professionals shall certify their findings to the court at  
 10 least~~[within]~~ twenty-four (24) hours before the hearing~~[of the~~  
 11 ~~examinations]~~.

12 2. Notwithstanding subparagraph 1. of this paragraph, if a qualified  
 13 health professional has examined the respondent within the last three  
 14 (3) months, that examination shall be admissible for the purposes of  
 15 subparagraph 1. of this paragraph and the petitioner shall need only  
 16 one (1) qualified health professional to examine the respondent and  
 17 certify his or her findings no later than twenty-four (24) hours before  
 18 the hearing date.

19 (3) If, upon completion of the hearing, the court finds the respondent should be ordered  
 20 to undergo treatment, then the court shall order such treatment for a period up to  
 21 one (1) year~~[not to exceed sixty (60) consecutive days from the date of the court~~  
 22 ~~order or a period not to exceed three hundred sixty (360) consecutive days]~~ from the  
 23 date of the court order, whatever was the period of time that was requested in the  
 24 petition or otherwise agreed to at the hearing. Failure of a respondent to undergo  
 25 treatment ordered pursuant to this subsection may place the respondent in contempt  
 26 of court.

27 (4) If the court orders the respondent to undergo treatment under subsection (3) of

1 this section, the court may request a treatment status update from the treatment  
 2 program every ninety (90) days. If requested, the treatment program shall provide  
 3 a treatment status update to the court.

4 ~~(5)~~~~(4)~~ At the request of the petitioner, an order issued under subsection (3)(a) of  
 5 this section may be renewed for an additional period, not to exceed one (1) year.  
 6 The request shall be by motion. Upon receipt of the petitioner's motion for  
 7 renewal, the court shall order a qualified health professional at the treatment  
 8 program to examine the respondent to determine whether the respondent  
 9 continues to meet the criteria for involuntary treatment established in Section 1  
 10 of this Act. Upon receipt of the evaluation from the qualified health professional,  
 11 the court shall schedule the motion for a hearing, after which the court may  
 12 grant or deny the motion for renewal. If the court grants the motion, the court  
 13 may, based on evidence presented at the hearing, modify the terms of the initial  
 14 order as to the treatment in which the respondent is ordered to participate.

15 (6) The petitioner or respondent, in conjunction with the treatment program, may by  
 16 motion move the court to alter or amend an original or renewed treatment order  
 17 to place the respondent in a more appropriate treatment program. If contested,  
 18 the court may hear evidence and may cause the respondent to be examined by a  
 19 qualified health professional as to the merits of the motion.

20 (7) If, at any time after the petition is filed, the court finds that there is no probable  
 21 cause to continue treatment or if the petitioner withdraws the petition, then the  
 22 proceedings against the respondent shall be dismissed.

23 ➔SECTION 4. A NEW SECTION OF KRS 222.430 TO 222.437 IS CREATED  
 24 TO READ AS FOLLOWS:

25 If the respondent does not appear and participate in treatment as ordered under  
 26 Section 3 of this Act, the treatment program shall immediately notify the county  
 27 attorney assigned to the District Court that ordered treatment and respondent's

1 counsel, if any, and present them with a report detailing the factual basis of the  
 2 noncompliance. If the county attorney finds that the report establishes probable cause  
 3 that the respondent has failed to comply with the court's order for treatment, the  
 4 county attorney shall initiate appropriate contempt proceedings. If the respondent is  
 5 found in contempt, the court may order the respondent held in jail until transported to  
 6 the treatment program as provided in Section 5 of this Act.

7 → Section 5. KRS 222.435 is amended to read as follows:

8 (1) (a) ~~[When the court is authorized to issue an order that the respondent be~~  
 9 ~~transported to a hospital, the court may, or]~~ If the respondent fails to:

10 1. Attend an examination required by Section 3 of this Act~~[scheduled~~  
 11 ~~before the hearing provided for in KRS 222.433];~~ or

12 2. Fails to appear and participate in treatment ordered under Section 3  
 13 of this Act; ~~[then]~~

14 the court shall~~[,]~~ issue a warrant or summons.

15 (b) A warrant or summons ~~[so]~~ issued pursuant to this subsection shall be  
 16 directed to the respondent and shall command the respondent to appear at a  
 17 time and place therein specified.

18 (2) (a) If a respondent who has been ordered or summoned to appear fails to~~[appear~~  
 19 ~~at the hospital];~~

20 1. Appear at~~[or]~~ the examination; or

21 2. Appear and participate in treatment;~~[, then]~~

22 the court may authorize the sheriff, the petitioner, or any other person  
 23 determined by the court as appropriate~~[may order the sheriff or other peace~~  
 24 ~~officer]~~ to transport the respondent to an examination~~[a hospital]~~ or to a  
 25 treatment program~~[or psychiatric facility designated by the cabinet for~~  
 26 ~~treatment under KRS 210.485].~~

27 (b) If a~~[The]~~ sheriff or another~~[other]~~ peace officer is authorized to transport the

1            **respondent, he or she** may, upon agreement of a person authorized by the  
 2            peace officer, authorize the cabinet, a private agency on contract with the  
 3            cabinet, or an ambulance service designated by the cabinet to transport the  
 4            respondent to **an examination**~~[the hospital]~~ **or to a treatment program**. The  
 5            transportation costs of the sheriff, other peace officer, ambulance service, or  
 6            other private agency on contract with the cabinet shall be included in the costs  
 7            of treatment for alcohol and other drug abuse to be paid by the petitioner.

8            ➔SECTION 6. A NEW SECTION OF KRS 222.430 TO 222.437 IS CREATED  
 9            TO READ AS FOLLOWS:

10          **(1) Court proceedings under KRS 222.430 to 222.437 shall not be open to the public,**  
 11          **and persons other than the parties, attorneys, witnesses, court personnel, and**  
 12          **security personnel may be present only with leave of the court given for good**  
 13          **cause.**

14          **(2) Court records of a respondent made under KRS 222.430 to 222.437 shall be**  
 15          **available to the respondent and respondent's counsel, if any, but shall otherwise**  
 16          **be confidential, and shall be subject to inspection and expungement to the same**  
 17          **extent and utilizing the same process as the records covered under KRS**  
 18          **202A.091.**

19          ➔Section 7. KRS 222.470 is amended to read as follows:

20          **(1)** Chemical dependency treatment programs shall not be considered for receipt of  
 21          state funds if they:

22          **(a)**~~(1)~~ Do not submit reports as required by KRS 222.460; or

23          **(b)**~~(2)~~ Do not cooperate in the submission of information that would allow the  
 24          cabinet to conduct a scientific random sample survey of client-outcome  
 25          indicators as required by KRS 222.465.

26          **(2) Alcohol and other drug abuse treatment services identified under this chapter**  
 27          **shall be authorized by the Department for Medicaid Services and its contractors**

1 as Medicaid-eligible services and shall be subject to the same medical necessity  
 2 criteria and reimbursement methodology as for all other covered behavioral  
 3 health services.

4 (3) Private insurers shall utilize their respective medical necessity criteria and  
 5 reimbursement methodology for alcohol and other drug abuse treatment services  
 6 identified under this chapter, in accordance with the Mental Health Parity and  
 7 Addiction Equity Act of 2008 Pub. L. No. 110-343, as amended.

8 ➔Section 8. KRS 210.485 is amended to read as follows:

9 Regional community boards for mental health or individuals with an intellectual disability  
 10 shall, on at least an annual basis, submit the following lists to the circuit clerks in each  
 11 board's region[=:

12 ~~(1) A list of hospitals and psychiatric facilities in the judicial districts within the board's~~  
 13 ~~region which are able and willing to take respondents ordered to undergo seventy-~~  
 14 ~~two (72) hours of treatment and observation pursuant to KRS 222.434; and~~

15 ~~(2) ] a list of hospitals and treatment providers in the judicial districts within the board's~~  
 16 ~~region who are able and willing to provide treatment for alcohol and other drug~~  
 17 ~~abuse ordered pursuant to KRS 222.433.~~

18 ➔Section 9. The following KRS section is repealed:

19 222.434 Seventy-two-hour emergency involuntary treatment.

20 ➔Section 10. KRS 620.100 is amended to read as follows:

21 (1) If the court determines, as a result of a temporary removal hearing, that further  
 22 proceedings are required, the court shall advise the child and his parent or other  
 23 person exercising custodial control or supervision of their right to appointment of  
 24 separate counsel:

25 (a) The court shall appoint counsel for the child to be paid for by the Finance and  
 26 Administration Cabinet. Counsel shall document participation in training on  
 27 the role of counsel that includes training in early childhood, child, and

1           adolescent development. The clerk of the court shall arrange for service on all  
2           parties, including the local representative of the Cabinet for Health and Family  
3           Services, of the order appointing counsel. The fee to be fixed by the court  
4           shall not exceed five hundred dollars (\$500)~~}; however, if the action has final~~  
5           ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~  
6           ~~dollars (\$250)}~~;

7           (b) The court shall appoint separate counsel for the parent who exercises custodial  
8           control or supervision if the parent is unable to afford counsel pursuant to  
9           KRS Chapter 31. The clerk of the court shall arrange for service on all parties,  
10          including the local representative of the Cabinet for Health and Family  
11          Services, of the order appointing counsel. The parent's counsel shall be  
12          provided or paid for by the Finance and Administration Cabinet. The fee to be  
13          fixed by the court shall not exceed five hundred dollars (\$500)~~}; however, if~~  
14          ~~the action has final disposition in the District Court, the fee shall not exceed~~  
15          ~~two hundred fifty dollars (\$250)}~~;

16          (c) The court may, in the interest of justice, appoint separate counsel for a  
17          nonparent who exercises custodial control or supervision of the child, if the  
18          person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of  
19          the court shall arrange for service on all parties, including the local  
20          representative of the Cabinet for Health and Family Services, of the order  
21          appointing counsel. Counsel for the person shall be provided or paid for by the  
22          Finance and Administration Cabinet. The fee to be fixed by the court shall not  
23          exceed five hundred dollars (\$500)~~}; however, if the action has final~~  
24          ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~  
25          ~~dollars (\$250)}~~; and

26          (d) The court may, in the interest of justice, appoint a court-appointed special  
27          advocate volunteer to represent the best interests of the child pursuant to KRS



1           620.500 to 620.550. The clerk of the court shall arrange for service on all  
2           parties, including the local representative of the cabinet, of the order  
3           appointing the court-appointed special advocate volunteer.

4 (2) If the court determines that further proceedings are required, the court also shall  
5           advise the child and his parent or other person exercising custodial control or  
6           supervision that they have a right to not incriminate themselves, and a right to a full  
7           adjudicatory hearing at which they may confront and cross-examine all adverse  
8           witnesses, present evidence on their own behalf and to an appeal.

9 (3) The adjudication shall determine the truth or falsity of the allegations in the  
10          complaint. The burden of proof shall be upon the complainant, and a determination  
11          of dependency, neglect, and abuse shall be made by a preponderance of the  
12          evidence. The Kentucky Rules of Civil Procedure shall apply.

13 (4) The disposition shall determine the action to be taken by the court on behalf of the  
14          child and his parent or other person exercising custodial control or supervision.

15 (5) Foster parents, preadoptive parents, or relatives providing care for the child shall  
16          receive notice of, and shall have a right to be heard in, any proceeding held with  
17          respect to the child. This subsection shall not be construed to require that a foster  
18          parent, preadoptive parent, or relative caring for the child be made a party to a  
19          proceeding solely on the basis of the notice and right to be heard.