

1 AN ACT relating to children in custody of the state.

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

3 ➔Section 1. KRS 620.010 is amended to read as follows:

4 In addition to the purposes set forth in KRS 600.010, this chapter shall be interpreted to
5 effectuate the following express legislative purposes regarding the treatment of
6 dependent, neglected and abused children. Children have certain fundamental rights
7 which must be protected and preserved, including but not limited to, the rights to
8 adequate food, clothing and shelter; the right to be free from physical, sexual or
9 emotional injury or exploitation; the right to develop physically, mentally, and
10 emotionally to their potential; and the right to educational instruction and the right to a
11 secure, stable family. It is further recognized that upon some occasions, in order to protect
12 and preserve the rights and needs of children, it is necessary to remove a child from his or
13 her parents. ***It is also recognized that any child who is removed from his or her parents***
14 ***shall have access to a permanent home as quickly as possible.***

15 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO
16 READ AS FOLLOWS:

17 ***After the completion of fifteen (15) months of the commitment of a child due to abuse,***
18 ***neglect, or dependency, the Cabinet for Health and Family Services shall:***

19 ***(1) Permanently reunite the child with his or her parent or other person exercising***
20 ***custodial control or supervision; or***

21 ***(2) File a petition in the court of appropriate jurisdiction seeking the termination of***
22 ***parental rights of the parent and authority to place the child for adoption in***
23 ***accordance with this chapter and KRS Chapter 625.***

24 ➔Section 3. KRS 625.090 is amended to read as follows:

25 (1) The Circuit Court may involuntarily terminate all parental rights of a parent of a
26 named child, if the Circuit Court finds from the pleadings and by clear and
27 convincing evidence that:

- 1 (a) 1. The child has been adjudged to be an abused or neglected child, as
- 2 defined in KRS 600.020(1), by a court of competent jurisdiction;
- 3 2. The child is found to be an abused or neglected child, as defined in KRS
- 4 600.020(1), by the Circuit Court in this proceeding; or
- 5 3. The parent has been convicted of a criminal charge relating to the
- 6 physical or sexual abuse or neglect of any child and that physical or
- 7 sexual abuse, neglect, or emotional injury to the child named in the
- 8 present termination action is likely to occur if the parental rights are not
- 9 terminated;

10 **(b) The Cabinet for Health and Family Services has filed a petition with the**
 11 **court pursuant to Section 2 of this Act;** and

12 ~~(c)~~ Termination would be in the best interest of the child.

13 (2) No termination of parental rights shall be ordered unless the Circuit Court also finds
 14 by clear and convincing evidence the existence of one (1) or more of the following
 15 grounds:

- 16 (a) That the parent has abandoned the child for a period of not less than ninety
- 17 (90) days;
- 18 (b) That the parent has inflicted or allowed to be inflicted upon the child, by other
- 19 than accidental means, serious physical injury;
- 20 (c) That the parent has continuously or repeatedly inflicted or allowed to be
- 21 inflicted upon the child, by other than accidental means, physical injury or
- 22 emotional harm;
- 23 (d) That the parent has been convicted of a felony that involved the infliction of
- 24 serious physical injury to any child;
- 25 (e) That the parent, for a period of not less than six (6) months, has continuously
- 26 or repeatedly failed or refused to provide or has been substantially incapable
- 27 of providing essential parental care and protection for the child and that there

1 is no reasonable expectation of improvement in parental care and protection,
2 considering the age of the child;

3 (f) That the parent has caused or allowed the child to be sexually abused or
4 exploited;

5 (g) That the parent, for reasons other than poverty alone, has continuously or
6 repeatedly failed to provide or is incapable of providing essential food,
7 clothing, shelter, medical care, or education reasonably necessary and
8 available for the child's well-being and that there is no reasonable expectation
9 of significant improvement in the parent's conduct in the immediately
10 foreseeable future, considering the age of the child;

11 (h) That:

12 1. The parent's parental rights to another child have been involuntarily
13 terminated;

14 2. The child named in the present termination action was born subsequent
15 to or during the pendency of the previous termination; and

16 3. The conditions or factors which were the basis for the previous
17 termination finding have not been corrected;

18 (i) That the parent has been convicted in a criminal proceeding of having caused
19 or contributed to the death of another child as a result of physical or sexual
20 abuse or neglect; or

21 (j) That the child has been in foster care under the responsibility of the cabinet
22 for fifteen (15) ~~of the most recent twenty-two (22)~~ months preceding the
23 filing of the petition to terminate parental rights.

24 (3) In determining the best interest of the child and the existence of a ground for
25 termination, the Circuit Court shall consider the following factors:

26 (a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as
27 defined by KRS 202B.010(9) of the parent as certified by a qualified mental

- 1 health professional, which renders the parent consistently unable to care for
2 the immediate and ongoing physical or psychological needs of the child for
3 extended periods of time;
- 4 (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the
5 family;
- 6 (c) If the child has been placed with the cabinet, whether the cabinet has, prior to
7 the filing of the petition made reasonable efforts as defined in KRS 620.020 to
8 reunite the child with the parents unless one or more of the circumstances
9 enumerated in KRS 610.127 for not requiring reasonable efforts have been
10 substantiated in a written finding by the District Court;
- 11 (d) The efforts and adjustments the parent has made in his circumstances,
12 conduct, or conditions to make it in the child's best interest to return him to his
13 home within a reasonable period of time, considering the age of the child;
- 14 (e) The physical, emotional, and mental health of the child and the prospects for
15 the improvement of the child's welfare if termination is ordered; and
- 16 (f) The payment or the failure to pay a reasonable portion of substitute physical
17 care and maintenance if financially able to do so.
- 18 (4) If the child has been placed with the cabinet, the parent may present testimony
19 concerning the reunification services offered by the cabinet and whether additional
20 services would be likely to bring about lasting parental adjustment enabling a return
21 of the child to the parent.
- 22 (5) If the parent proves by a preponderance of the evidence that the child will not
23 continue to be an abused or neglected child as defined in KRS 600.020(1) if
24 returned to the parent the court in its discretion may determine not to terminate
25 parental rights.
- 26 (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
27 findings of fact, conclusions of law, and a decision as to each parent-respondent

- 1 within thirty (30) days either:
- 2 (a) Terminating the right of the parent; or
- 3 (b) Dismissing the petition and stating whether the child shall be returned to the
- 4 parent or shall remain in the custody of the state.