

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 8 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. and the petitioner shall need only one (1) qualified***
 16 ***health professional to examine the respondent and certify his or her***
 17 ***findings no later than twenty-four (24) hours before the hearing date;***
 18 ***and***

19 ***(d) Fix a fee for counsel appointed to represent the respondent, if any, not to***
 20 ***exceed five hundred dollars (\$500).***

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

1 subsection may place the respondent in contempt of court.

2 (b) If, upon completion of the hearing, the court finds that the petitioner did
3 not file the correct paperwork, the court shall hold the petition in abeyance
4 until the petitioner has the opportunity to file the correct paperwork.

5 (c) If, upon completion of the hearing, the court finds that there is insufficient
6 evidence to order the respondent to undergo treatment, the court may hold
7 the petition in abeyance to provide the petitioner an opportunity to gather
8 additional evidence.

9 (4) If the court orders the respondent to undergo treatment under subsection (3) of
10 this section, the court may request a treatment status update from the treatment
11 program every ninety (90) days. If requested, the treatment program shall provide
12 a treatment status update to the court.

13 ~~(5)~~(4) At the request of the petitioner, an order issued under subsection (3)(a) of
14 this section may be renewed for additional periods, with no single period
15 exceeding one (1) year. The request shall be by motion. Upon receipt of the
16 petitioner's motion for renewal, the court shall order a qualified health
17 professional at the treatment program to examine the respondent to determine
18 whether the respondent continues to meet the criteria for involuntary treatment
19 established in Section 1 of this Act. Upon receipt of the evaluation from the
20 qualified health professional, the court shall schedule the motion for a hearing,
21 after which the court may grant or deny the motion for renewal. If the court
22 grants the motion, the court may, based on evidence presented at the hearing,
23 modify the terms of the initial order as to the treatment in which the respondent is
24 ordered to participate.

25 (6) The petitioner, respondent, or treatment program may, by motion, move the court
26 to alter or amend an original or renewed treatment order to place the respondent
27 in a more appropriate treatment program. If contested, the court may hear

1 *evidence and may cause the respondent to be examined by a qualified health*
2 *professional as to the merits of the motion.*

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

6 ➔Section 4. KRS 222.434 is amended to read as follows:

7 (1) Following an examination by a qualified health professional and a certification by
8 that professional that the person meets the criteria specified in KRS 222.431, the
9 *District Court of any county where the person may be found*~~[court]~~ may, *when*
10 *presented with a petition under KRS 222.430 to 222.437,* order the person
11 hospitalized for a period not to exceed seventy-two (72) hours if the court finds, by
12 clear and convincing evidence, that the *person*~~[respondent]~~ presents an imminent
13 threat of danger to self, family, or others as a result of alcohol and other drug abuse
14 *and can reasonably benefit from treatment in accordance with the qualified*
15 *health professional's recommendation. If the court issuing an order under this*
16 *section is not the District Court of the person's permanent or temporary*
17 *residence, the court shall, after issuing the order for treatment, transfer the*
18 *action to the District Court of the county of the person's residence.*

19 (2) Any person who has been admitted to a hospital under subsection (1) of this section
20 shall be released from the hospital within seventy-two (72) hours of admittance.

21 (3) No *person*~~[respondent]~~ ordered hospitalized under this section shall be held in jail
22 pending transportation to the hospital or evaluation unless the court has previously
23 found the *person*~~[respondent]~~ to be in contempt of court for either failure to
24 undergo treatment or failure to appear at the evaluation ordered pursuant to KRS
25 222.433.

26 *(4) This section shall not limit or abridge the ability to hold or treat a person under*
27 *any other provision of law, including KRS Chapter 202A.*

1 ➔SECTION 5. A NEW SECTION OF KRS 222.430 TO 222.437 IS CREATED
2 TO READ AS FOLLOWS:

3 *If the respondent does not appear and participate in treatment as ordered under*
4 *Section 3 of this Act, the treatment program shall immediately notify the court and*
5 *present it with a report detailing the factual basis of the noncompliance. If the court*
6 *finds that the report states a basis for a finding of contempt, the court shall initiate*
7 *appropriate contempt proceedings. If found in contempt, the court may order the*
8 *respondent held in jail until transported to the treatment program as provided in*
9 *Section 6 of this Act.*

10 ➔Section 6. KRS 222.435 is amended to read as follows:

11 (1) (a) When the court *orders a person to*~~is authorized to issue an order that the~~
12 ~~respondent~~ be transported to a hospital *pursuant to Section 4 of this Act*, the
13 court may *issue a summons.*~~[, or]~~

14 (b) If the respondent fails to:

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

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

19 the court shall~~[,]~~ issue a summons.

20 (c) A summons ~~[so]~~ issued *pursuant to this subsection* shall be directed to the
21 respondent and shall command the respondent to appear at a time and place
22 therein specified.

23 (2) (a) If a respondent who has been summoned fails to:

24 1. Appear at the hospital;

25 2. *Appear at*~~[or]~~ the examination; *or*

26 3. *Appear and participate in treatment;*~~[, then]~~

27 the court *may authorize the petitioner, or another person chosen by the*

1 petitioner, ~~[may order the sheriff or other peace officer]~~ to transport the
 2 respondent to a hospital, to an examination, or to a treatment program ~~[or~~
 3 ~~psychiatric facility designated by the cabinet for treatment under KRS~~
 4 ~~210.485]~~.

5 **(b) If the petitioner chooses not to transport the respondent, or to not designate**
 6 **another person to transport the respondent, the court may order** the sheriff
 7 or other peace officer ~~[may, upon agreement of a person authorized by the~~
 8 ~~peace officer, authorize the cabinet, a private agency on contract with the~~
 9 ~~cabinet, or an ambulance service designated by the cabinet]~~ to transport the
 10 respondent to the hospital, to an examination, or to a treatment program.
 11 **The sheriff or other peace officer may authorize the cabinet, a private**
 12 **agency on contract with the cabinet, or an ambulance service designated by**
 13 **the cabinet to transport the respondent on their behalf.** The transportation
 14 costs of the sheriff, other peace officer, ambulance service, or other private
 15 agency on contract with the cabinet shall be included in the costs of treatment
 16 for alcohol and other drug abuse to be paid by the petitioner.

17 ➔SECTION 7. A NEW SECTION OF KRS 222.430 TO 222.437 IS CREATED
 18 TO READ AS FOLLOWS:

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

23 **(2) Court records of a respondent made under KRS 222.430 to 222.437 shall be**
 24 **confidential, and shall be subject to inspection and expungement to the same**
 25 **extent and utilizing the same process as the records covered under KRS**
 26 **202A.091.**

27 ➔Section 8. KRS 222.470 is amended to read as follows:

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

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

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

7 **(2)** *Alcohol and other drug abuse treatment services identified under this chapter*
 8 *shall be authorized by the Department for Medicaid Services and its contractors*
 9 *as Medicaid-eligible services and shall be subject to the same medical necessity*
 10 *criteria and reimbursement methodology as for all other covered behavioral*
 11 *health services.*

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

16 ➔Section 9. KRS 620.100 is amended to read as follows:

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

21 (a) The court shall appoint counsel for the child to be paid for by the Finance and
 22 Administration Cabinet. Counsel shall document participation in training on
 23 the role of counsel that includes training in early childhood, child, and
 24 adolescent development. The clerk of the court shall arrange for service on all
 25 parties, including the local representative of the Cabinet for Health and Family
 26 Services, of the order appointing counsel. The fee to be fixed by the court
 27 shall not exceed five hundred dollars (\$500)~~[-; however, if the action has final~~

1 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~
2 ~~dollars (\$250)];~~

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

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

22 (d) The court may, in the interest of justice, appoint a court-appointed special
23 advocate volunteer to represent the best interests of the child pursuant to KRS
24 620.500 to 620.550. The clerk of the court shall arrange for service on all
25 parties, including the local representative of the cabinet, of the order
26 appointing the court-appointed special advocate volunteer.

27 (2) If the court determines that further proceedings are required, the court also shall

1 advise the child and his parent or other person exercising custodial control or
2 supervision that they have a right to not incriminate themselves, and a right to a full
3 adjudicatory hearing at which they may confront and cross-examine all adverse
4 witnesses, present evidence on their own behalf and to an appeal.

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

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

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