

1 AN ACT relating to adoption.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "putative father" means a male who may be a child's*
6 *father, but who:*

7 *(a) Is not married to the child's mother on or before the date that the child is*
8 *born;*

9 *(b) Has not established paternity of the child in a court or agency proceeding in*
10 *this or another state before the filing of a petition for adoption of the child;*
11 *or*

12 *(c) Has not completed an acknowledgment of paternity affidavit before the*
13 *filing of a petition for adoption of the child.*

14 *(2) The cabinet shall establish a putative father registry and promulgate*
15 *administrative regulations to administer the registry in accordance with this*
16 *section.*

17 *(3) (a) A putative father may register with the putative father registry by providing*
18 *the following information to the cabinet:*

19 *1. The putative father's name, date of birth, place of birth, place of*
20 *residence, and an address at which he may be served with notice of the*
21 *filing of a petition for adoption;*

22 *2. The mother's name, date of birth, place of birth, place of residence,*
23 *and mailing address, if known; and*

24 *3. Any other information described in subsection (4) of this section that*
25 *is known to the putative father.*

26 *(b) A putative father who registers under this section is responsible for:*

27 *1. Verifying with the cabinet the accuracy of the registration; and*

1 2. Submitting to the cabinet an amended registration each time the
2 information supplied by the putative father changes.

3 (c) A putative father who has registered pursuant to this section may revoke a
4 registration at any time.

5 (4) The cabinet shall maintain the following information in the putative father
6 registry:

7 (a) The putative father's name, date of birth, place of birth, place of residence,
8 and an address at which he may be served with notice of the filing of a
9 petition for adoption;

10 (b) The mother's name, date of birth, place of birth, place of residence, and
11 mailing address, if known;

12 (c) The child's name, date of birth, and place of birth, if known;

13 (d) The date that the cabinet receives a putative father's registration;

14 (e) The name of any attorney or agency that requests the cabinet to search the
15 registry pursuant to Section 2 of this Act and the date of the request; and

16 (f) Any other information that the cabinet determines is necessary to access the
17 information in the registry.

18 (5) The cabinet shall store the registry's data so that it is accessible under the
19 following:

20 (a) The putative father's name;

21 (b) The mother's name; or

22 (c) The child's name.

23 (6) Subject to subsection (7) of this section, the cabinet shall furnish a certified copy
24 of a putative father's registration form upon written request by:

25 (a) A putative father;

26 (b) A mother;

27 (c) A child;

1 (d) Any party or attorney of record in a pending adoption;

2 (e) An attorney who represents:

3 1. Prospective adoptive parents;

4 2. Petitioners in an adoption;

5 3. A mother;

6 4. A putative father; or

7 5. A child-placing agency;

8 (f) A licensed child-placing agency that represents:

9 1. Prospective adoptive parents;

10 2. Petitioners in an adoption;

11 3. A mother; or

12 4. A putative father; or

13 (g) A court that presides over a pending adoption.

14 (7) The cabinet may release the certified copy of the registration form to a person
15 under subsection (6)(a) to (c) of this section only if the information contained in
16 the registration form names the requesting person.

17 (8) A person who makes a request pursuant to this section shall state that the
18 requesting person is entitled to receive the information under this section.

19 (9) Except as otherwise provided in this section and Section 2 of this Act,
20 information contained within the registry is confidential.

21 (10) The cabinet shall publish information regarding the putative father registry on its
22 Web site.

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) An attorney or child-placing agency that arranges a prospective adoption may at
26 any time request that the cabinet search the putative father registry established
27 under Section 1 of this Act to determine whether a putative father is registered in

1 relation to a mother whose child is the subject of the adoption.

2 (2) Whenever a petition for adoption is filed, the attorney or child-placing agency
 3 that arranges the adoption shall request that the cabinet search the putative
 4 father registry at least one (1) day after the expiration of the period specified by
 5 subsection (1)(b)2. of Section 5 of this Act.

6 (3) No later than five (5) days after receiving a request under subsection (1) or (2) of
 7 this section, the cabinet shall submit an affidavit to the requesting party verifying
 8 whether a putative father is registered in relation to a mother whose child is the
 9 subject of the adoption.

10 (4) Whenever the cabinet finds that one (1) or more putative fathers are registered,
 11 the cabinet shall submit a copy of each registration form with its affidavit.

12 (5) A court shall not grant an adoption unless the cabinet's affidavit under this
 13 section is filed with the court.

14 ➔Section 3. KRS 199.470 is amended to read as follows:

15 (1) Any person who is eighteen (18) years of age and who is a resident of this state or
 16 who has resided in this state for twelve (12) months next before filing may file a
 17 petition for leave to adopt a child in the Circuit Court of the county in which the
 18 petitioner resides.

19 (2) If the petitioner is married, the husband or wife shall join in a petition for leave to
 20 adopt a child unless the petitioner is married to a biological parent of the child to be
 21 adopted, except that if the court finds the requirement of a joint petition would serve
 22 to deny the child a suitable home, the requirement may be waived.

23 (3) If a child is placed for adoption by the cabinet, by an agency licensed by the cabinet,
 24 or with written approval by the secretary of the cabinet, the petition may be filed at
 25 the time of placement. In all other adoptions, the petition shall not be filed until the
 26 child resides~~[has resided continuously]~~ in the home of the petitioner~~[for at least~~
 27 ~~ninety (90) days immediately prior to the filing of the adoption petition].~~

- 1 (4) No petition for adoption shall be filed unless prior to the filing of the petition the
2 child sought to be adopted has been placed for adoption by a child-placing
3 institution or agency, or by the cabinet, or the child has been placed with written
4 approval of the secretary; but no approval shall be necessary in the case of:
- 5 (a) A child sought to be adopted by a stepparent, grandparent, sister, brother,
6 aunt, uncle, great grandparent, great aunt, or great uncle; however, the court in
7 its discretion may order a report in accordance with KRS 199.510 and a
8 background check as provided in KRS 199.473(8);
- 9 (b) A child received by the proposed adopting parent or parents from an agency
10 without this state with the written consent of the secretary; or
- 11 (c) A child adopted under the provisions of KRS 199.585(1).
- 12 (5) Subsection (4) of this section shall not apply to children placed for adoption prior to
13 June 14, 1962.
- 14 ➔Section 4. KRS 199.473 is amended to read as follows:
- 15 (1) All persons other than a child-placing agency or institution, the department, or
16 persons excepted by KRS 199.470 (4) or (5) who wish to place or receive a child
17 shall make written application to the secretary for permission to place or receive a
18 child.
- 19 (2) Prior to the approval of an application to place or receive a child, the fee required
20 pursuant to subsection (13) of this section shall be paid and a home study shall be
21 completed. The purpose of the home study shall be to review the background of the
22 applicant and determine the suitability of the applicant to receive a child, taking into
23 account at all times the best interest of the child for whom application to receive has
24 been made.
- 25 (3) (a) The home study shall be made in accordance with administrative regulations
26 promulgated by the cabinet in accordance with KRS Chapter 13A.
- 27 (b) The cabinet shall conduct the home study for an applicant whose total gross

1 income is equal to or less than two hundred fifty percent (250%) of the federal
2 poverty level guidelines issued each year by the federal government, unless
3 the applicant submits a written request for the home study to be conducted by
4 a licensed child-placing agency or institution. Upon request, the cabinet shall
5 make information available to an applicant who does not meet the
6 requirements of this paragraph to assist the applicant in obtaining a home
7 study from a licensed child-placing agency approved to provide adoption
8 services.

9 (c) A licensed child-placing agency approved to provide adoption services shall
10 conduct the home study for an applicant whose gross total income is more
11 than two hundred fifty percent (250%) of the federal poverty level guidelines
12 issued each year by the federal government.

13 (d) Calculation of family size for this subsection shall include each child
14 requested to be adopted.

15 (e) The portion of the home study pertaining to the home and family background
16 shall be valid for one (1) year following the date of its completion by an
17 adoption worker.

18 (4) The adoption worker making the home study shall make a finding in writing
19 recommending either that the application be granted or that the application be
20 denied. The recommendation of the adoption worker shall then be reviewed by the
21 secretary.

22 (5) Based on the report and recommendation of the adoption worker making the home
23 study, the secretary shall grant or refuse permission for the applicant to place or
24 receive a child as early as practicable, but, in any case, the decision shall be made
25 within sixty (60) days after the receipt of the application. In reaching a decision, the
26 secretary shall be guided by the ability of the persons wishing to receive the child to
27 give the child a suitable home, and shall at all times consider the best interest of the

1 child from a financial, medical, psychological, and psychiatric standpoint.

2 (6) If the application is refused, the secretary shall in general terms furnish in writing
3 the reasons for his or her refusal.

4 (7) Any person who seeks temporary custody of a child prior to the secretary's ruling on
5 an application for adoption shall file a petition seeking temporary custody, with a
6 notice of intent to adopt, with the Circuit Court that will have jurisdiction of the
7 adoption proceedings. The clerk of the court shall send a notice of the filing of the
8 petition to the cabinet. A hearing on the petition shall occur no later than seventy-
9 two (72) hours after the filing of the petition, excluding weekends and holidays.
10 Proceedings under this subsection shall be incorporated into the court's adoption
11 file. If the adoption is not finalized within six (6) months of the filing of the petition
12 and notice of intent, the court shall conduct a hearing on the status and custody of
13 the child.

14 (8) Upon a finding by the Circuit Court that the child should be placed prior to the
15 secretary's ruling on the application, the Circuit Court may grant the applicant
16 temporary custody of the child pending the decision of the secretary. Temporary
17 custody shall not be granted to an applicant unless a background check, including
18 but not limited to a criminal records check by the Justice and Public Safety Cabinet
19 or the Administrative Office of the Courts and a background check of child abuse
20 and neglect records maintained by the cabinet, has been submitted to and reviewed
21 by the court. The background check required for temporary custody shall be part of
22 the home study required under subsection (2) of this section. If the application is
23 denied by the secretary, the temporary custody order shall be set aside and, upon
24 motion of the cabinet or of the child's parent or parents, the Circuit Court may order
25 the child returned to the biological parent or parents or the child's custody may be
26 awarded to the cabinet, another licensed child-placing agency, or other individuals
27 deemed appropriate by the court. This section shall not be deemed to permit the

1 completion of any adoption proceeding without the approval of the secretary and
2 compliance with KRS 615.030, if required.

3 (9) In any case where the cabinet refuses to approve the placement of a child for
4 adoption when requested by the parent or parents of the child, or refuses the request
5 of any person or persons that a child be placed with that person or those persons for
6 adoption, the decision of the secretary in so refusing shall be final unless within ten
7 (10) days after notice of refusal, the biological or proposed adopting parent or
8 parents shall appeal to the Circuit Court of the county in which the adoption is
9 proposed. No placement shall be disapproved on the basis of the religious, ethnic,
10 racial, or interfaith background of the adoptive applicant, if the placement is made
11 with the consent of the parent.

12 (10) The cabinet may refuse to approve the placement of a child for adoption if the
13 child's custodial parent is unwilling for the child to be placed for adoption with the
14 proposed adoptive family. The cabinet may approve or deny the placement, in spite
15 of the fact that the custodial parent or parents are unwilling to be interviewed by the
16 cabinet or other approving entity, or if, after diligent efforts have been made, the
17 adoption worker is unable to locate or interview the custodial parent or parents. The
18 cabinet shall be made a party defendant to the appeal. In the hearing of an appeal,
19 the court shall review the findings of the secretary and shall determine if the
20 secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse
21 of discretion.

22 (11) If a child who does not fall within the exception provided for in KRS 199.470 (4) or
23 (5) is placed or received in a home without the court's review of the background
24 check required under this section or the permission of the secretary for health and
25 family services, or if permission to receive a child has been denied, a representative
26 of the cabinet shall notify in writing or may petition the juvenile session of District
27 Court of the county in which the child is found setting out the facts concerning the

1 child. When the petition has been filed, the court shall take jurisdiction of the child
2 and shall provide for it as it would provide for a dependent, neglected, or abused
3 child under KRS Chapter 620, except that the child may not be placed in the home
4 of the applicants who are to receive the child unless permission to do so is granted
5 by the secretary or the action is ordered by a Kentucky court of competent
6 jurisdiction.

7 (12) When either the custodial parent or parents of the child to be placed or the persons
8 wishing to receive the child reside out-of-state, the requirement of KRS 615.030,
9 Interstate Compact on the Placement of Children, shall be met before the cabinet
10 gives approval for the child's placement.

11 ~~(13) [The secretary of the Cabinet for Health and Family Services shall be paid a~~
12 ~~nonrefundable fee of two hundred dollars (\$200) upon the filing of the written~~
13 ~~application for permission to place or receive a child. Payment shall be made by~~
14 ~~certified or cashier's check only. All funds collected under this section shall be~~
15 ~~deposited in a restricted account, which is hereby created, for the purpose of~~
16 ~~subsidizing an adoptive parent for suitable care of a special-needs child as~~
17 ~~authorized in KRS 199.555.~~

18 ~~(14) [Nothing in this statute shall be construed to limit the authority of the cabinet or a~~
19 ~~child-placing institution or agency to determine the proper disposition of a child~~
20 ~~committed to it by the juvenile session of District Court or the Circuit Court, prior~~
21 ~~to the filing of an application to place or receive.~~

22 **(14) The cabinet shall by administrative regulation establish a single unified form for**
23 **use as the application for permission to place or receive a child pursuant to this**
24 **section.**

25 ➔Section 5. KRS 199.480 is amended to read as follows:

26 (1) The following persons shall be made parties defendant in an action for leave to
27 adopt a child:

- 1 (a) The child to be adopted;
- 2 (b) The biological living parents of a child under eighteen (18), if the child is born
- 3 in lawful wedlock. If the child is born out of wedlock, its mother; and its
- 4 father, if one (1) of the following requirements is met:
- 5 1. He is known and voluntarily identified by the mother by affidavit;
- 6 2. **He has registered with the cabinet pursuant to Section 1 of this Act as**
- 7 **a putative father prior to the birth of the child, or if he did not have**
- 8 **notice prior to the birth of the child, within twenty (20)**~~[Prior to the~~
- 9 ~~entry of a final order in a termination proceeding, he has acknowledged~~
- 10 ~~the child as his own by affirmatively asserting paternity in the action or~~
- 11 ~~to the custodial agency or the party bringing the action within sixty (60)]~~
- 12 days after the birth of the child;
- 13 3. He has caused his name to be affixed to the birth certificate of the child;
- 14 4. He has commenced a judicial proceeding claiming parental right;
- 15 5. He has contributed financially to the support of the child, either by
- 16 paying the medical or hospital bills associated with the birth of the child
- 17 or financially contributed to the child's support; or
- 18 6. He has married the mother of the child or has lived openly or is living
- 19 openly with the child or the person designated on the birth certificate as
- 20 the biological mother of the child.
- 21 A putative father shall not be made a party defendant if none of the
- 22 requirements set forth above have been met, and a biological parent shall not
- 23 be made a party defendant if the parental rights of that parent have been
- 24 terminated under KRS Chapter 625, or under a comparable statute of another
- 25 jurisdiction;
- 26 (c) The child's guardian, if it has one.
- 27 (d) If the care, custody, and control of the child has been transferred to the

1 cabinet, or any other individual or individuals, institution, or agency, then the
2 cabinet, the other individual or individuals, institution, or agency shall be
3 named a party defendant, unless the individual or individuals, or the
4 institution or agency is also the petitioner.

5 (2) Each party defendant shall be brought before the court in the same manner as
6 provided in other civil cases except that if the child to be adopted is under fourteen
7 (14) years of age and the cabinet, individual, institution, or agency has custody of
8 the child, the service of process upon the child shall be had by serving a copy of the
9 summons in the action upon the cabinet, individual, institution or agency, any
10 provision of CR 4.04(3) to the contrary notwithstanding.

11 (3) If the child's biological living parents, if the child is born in lawful wedlock, or if
12 the child is born out of wedlock, its mother, and if paternity is established in legal
13 action or if an affidavit is filed stating that the affiant is father of the child, its
14 father, are parties defendant, no guardian ad litem need be appointed to represent
15 the child to be adopted.

16 ➔Section 6. KRS 199.500 is amended to read as follows:

17 (1) An adoption shall not be granted without the voluntary and informed consent, as
18 defined in KRS 199.011, of the living parent or parents of a child born in lawful
19 wedlock or the mother of the child born out of wedlock, or the father of the child
20 born out of wedlock if paternity is established in a legal action or if an affidavit is
21 filed stating that the affiant is the father of the child, except that the consent of the
22 living parent or parents shall not be required if:

23 (a) The parent or parents have been adjudged mentally disabled and the judgment
24 shall have been in effect for not less than one (1) year prior to the filing of the
25 petition for adoption;

26 (b) The parental rights of the parents have been terminated under KRS Chapter
27 625;

- 1 (c) The living parents are divorced and the parental rights of one (1) parent have
 2 been terminated under KRS Chapter 625 and consent has been given by the
 3 parent having custody and control of the child; or
- 4 (d) The biological parent has not established parental rights as required by KRS
 5 625.065.
- 6 (2) A minor parent who is a party defendant may consent to an adoption but a guardian
 7 ad litem for the parent shall be appointed.
- 8 (3) In the case of a child twelve (12) years of age or older, the consent of the child shall
 9 be given in court. The court in its discretion may waive this requirement.
- 10 (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be
 11 granted without the consent of the biological living parents of a child if it is pleaded
 12 and proved as a part of the adoption proceedings that any of the provisions of KRS
 13 625.090 exist with respect to the child.
- 14 (5) An adoption shall not be granted or a consent for adoption be held valid if the
 15 consent for adoption is given prior to seventy-two (72) hours after the birth of the
 16 child, *unless the consent is executed pursuant to, and is valid under, the laws of*
 17 *the state of residence of the consenting parent.* A voluntary and informed consent
 18 may be taken at seventy-two (72) hours after the birth of the child and shall become
 19 final and irrevocable *upon* ~~[under paragraphs (a) and (b) of this subsection.~~
- 20 ~~(a) If placement approval by the secretary is required, the voluntary and informed~~
 21 ~~consent shall become final and irrevocable twenty (20) days after the later of~~
 22 ~~the placement approval or]the execution of the voluntary and informed~~
 23 ~~consent.~~
- 24 ~~[(b) If placement approval by the secretary is not required, the voluntary and~~
 25 ~~informed consent shall become final and irrevocable twenty (20) days after the~~
 26 ~~execution of the voluntary and informed consent.]~~
- 27 ➔Section 7. KRS 199.990 is amended to read as follows:

- 1 (1) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be
2 guilty of an offense, and upon conviction thereof, shall be fined not more than five
3 hundred dollars (\$500) or imprisoned for not more than twelve (12) months, or be
4 both fined and imprisoned, in the discretion of the court.
- 5 (2) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473,
6 199.570, 199.572, and 199.590 except subsection (2), or 199.640 to 199.670, or any
7 rule or regulation under such sections the violation of which is made unlawful shall
8 be fined not less than five hundred dollars (\$500) nor more than two thousand
9 dollars (\$2,000) or imprisoned for not more than six (6) months, or both. Each day
10 such violation continues shall constitute a separate offense.
- 11 (3) Any person who willfully violates any other of the provisions of KRS 199.420 to
12 199.670 or any rule or regulation thereunder, the violation of which is made
13 unlawful under the terms of those sections, and for which no other penalty is
14 prescribed in those sections or in subsection (1) of this section, or in any other
15 applicable statute, shall be fined not less than one hundred dollars (\$100) nor more
16 than two hundred dollars (\$200) or imprisoned for not more than thirty (30) days, or
17 both.
- 18 (4) Any violation of the regulations, standards, or requirements of the cabinet under the
19 provisions of KRS 199.896 that poses an immediate threat to the health, safety, or
20 welfare of any child served by the child-care center shall be subject to a civil
21 penalty of no more than one thousand dollars (\$1,000) for each occurrence. Treble
22 penalties shall be assessed for two (2) or more violations within twelve (12)
23 months. All money collected as a result of civil penalties assessed under the
24 provisions of KRS 199.896 shall be paid into the State Treasury and credited to a
25 special fund for the purpose of the Early Childhood Scholarship Program created in
26 accordance with KRS 164.518. The balance of the fund shall not lapse to the
27 general fund at the end of each biennium.

1 (5) A person who commits a violation of the regulations, standards, or requirements of
2 the cabinet under the provisions of KRS 199.896 shall be fined not less than one
3 thousand dollars (\$1,000) or imprisoned for not more than twelve (12) months, or
4 be fined and imprisoned, at the discretion of the court.

5 (6) Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of
6 a Class D felony.

7 **(7) Any person who knowingly or intentionally registers false information under**
8 **subsection (3) of Section 1 of this Act shall be fined not more than one thousand**
9 **dollars (\$1,000) or imprisoned for not more than twelve (12) months, or be fined**
10 **and imprisoned, at the discretion of the court.**

11 **(8) Any person who knowingly or intentionally releases or requests confidential**
12 **information in violation of subsection (6) or (7) of Section 1 of this Act or in**
13 **violation of Section 2 of this Act shall be fined not more than one thousand**
14 **dollars (\$1,000) or imprisoned for not more than twelve (12) months, or be fined**
15 **and imprisoned, at the discretion of the court. It is a defense under this**
16 **subsection if the cabinet releases confidential information while acting in good**
17 **faith and with reasonable diligence.**

18 ➔Section 8. KRS 406.081 is amended to read as follows:

19 The court, upon request of a party or on its own motion, shall order the mother, child, and
20 alleged father to submit to genetic tests. If the mother refuses for herself or on behalf of
21 the child to submit to the tests, the court may resolve the question of paternity against her
22 unless the action is brought by or is being prosecuted by an agency contributing to the
23 support of the child. **If the alleged father is ordered to submit to genetic tests and**
24 **refuses or does not submit the results of the paternity test to the court within thirty (30)**
25 **days of the court order, the court shall resolve the question of paternity against him.**

26 ➔Section 9. KRS 406.091 is amended to read as follows:

27 (1) An unchallenged acknowledgment of paternity shall be ratified under KRS Chapter

- 1 213 without the requirement for judicial or administrative proceedings. If a genetic
2 test is required, the court shall direct that inherited characteristics be determined by
3 appropriate testing procedures, and shall appoint an expert qualified as an examiner
4 of genetic markers to analyze and interpret results and to report to the court.
- 5 (2) In a contested paternity case, the child and all other parties shall submit to genetic
6 testing upon a request of any such party which shall be supported by a sworn
7 statement of the party, except for good cause.
- 8 (3) Genetic test results are admissible and shall be weighed along with other evidence
9 of the alleged father's paternity.
- 10 (4) Any objection to genetic testing results shall be made in writing to the court within
11 twenty (20) days of receipt of genetic test results. If the results of genetic tests or the
12 expert's analysis of inherited characteristics is disputed, the court, upon reasonable
13 request of a party, shall order that an additional test be made by the same laboratory
14 or independent laboratory at the expense of the party requesting additional testing. If
15 no objection is made, the test results are admissible as evidence of paternity without
16 the need for foundation testimony or other proof of authenticity or accuracy.
- 17 (5) Verified documentation of the chain of custody in transmitting the blood specimens
18 is competent evidence to establish the chain of custody.
- 19 (6) A verified expert's report shall be admitted at trial unless the expert is called by a
20 party or the court as a witness to testify to his findings.
- 21 (7) Except where the Cabinet for Health and Family Services administratively orders
22 genetic testing, all costs associated with genetic testing shall be paid by the ***party***
23 ***who requested that the action be brought pursuant to KRS 406.021***~~[parties in~~
24 ~~proportions determined by the court].~~
- 25 (8) When administratively ordered, the cabinet shall pay the cost of genetic testing to
26 establish paternity, subject to recoupment from the alleged father when paternity is
27 established. The cabinet shall obtain additional testing in any case if an original test

1 is contested, upon request and advance payment by the contestant.

2 ➔Section 10. KRS 625.065 is amended to read as follows:

3 (1) The putative father of a child shall be made a party and brought before the Circuit
4 Court in the same manner as any other party to an involuntary termination action if
5 one (1) of the following conditions exists:

6 (a) He is known and voluntarily identified by the mother by affidavit;

7 (b) *He has contributed financially to the support of the child, either by paying*
8 *the medical or hospital bills associated with the birth of the child or*
9 *financially contributed to the child's support, and has registered with the*
10 *cabinet pursuant to Section 1 of this Act as a putative father prior to the*
11 *birth of the child, or if he did not have notice prior to the birth of the child,*
12 *within twenty (20)*~~[Prior to the entry of a final order in a termination~~
13 ~~proceeding, he shall have acknowledged the child as his own by affirmatively~~
14 ~~asserting paternity in the action or to the custodial agency or the party bringing~~
15 ~~the action within sixty (60)]~~ days after the birth of the child;

16 (c) He has caused his name to be affixed to the birth certificate of the child;

17 (d) He has commenced a judicial proceeding claiming parental right; *or*

18 (e) ~~[He has contributed financially to the support of the child, either by paying the~~
19 ~~medical or hospital bills associated with the birth of the child or financially~~
20 ~~contributed to the child's support; or~~

21 (f) ~~—~~He has married the mother of the child or has lived openly or is living openly
22 with the child or the person designated on the birth certificate as the biological
23 mother of the child.

24 (2) Any person to whom none of the above conditions apply shall be deemed to have no
25 parental rights to the child in question.

26 ➔Section 11. KRS 199.490 is amended to read as follows:

27 (1) The petition shall allege:

- 1 (a) The name, date, place of birth, place of residence, and mailing address of each
2 petitioner, and, if married, the date and place of their marriage;
- 3 (b) The name, date, place of birth, place of residence, and mailing address, if
4 known, of the child sought to be adopted;
- 5 (c) Relationship, if any, of the child to each petitioner;
- 6 (d) Full name by which the child shall be known after adoption;
- 7 (e) A full description of the property, if any, of the child so far as it is known to
8 the petitioner;
- 9 (f) The names of the parents of the child and the address of each living parent, if
10 known. The name of the biological father of a child born out of wedlock shall
11 not be given unless paternity is established in a legal action, or unless an
12 affidavit is filed stating that the affiant is the father of the child. If certified
13 copies of orders terminating parental rights are filed as provided in subsection
14 (2) of this section, the name of any parent whose rights have been terminated
15 shall not be given;
- 16 (g) The name and address of the child's guardian, if any, or of the cabinet,
17 institution, or agency having legal custody of the child;
- 18 (h) Any further facts necessary for the location of the person or persons whose
19 consent to the adoption is required, or whom KRS 199.480 requires to be
20 made a party to or notified of the proceeding; and
- 21 (i) If any fact required by this subsection to be alleged is unknown to the
22 petitioners, the lack of knowledge shall be alleged.
- 23 (2) There shall be filed with the petition certified copies of any orders terminating
24 parental rights. Any consent to adoption shall be filed prior to the entry of the
25 adoption judgment.
- 26 (3) If the petitioner was not excepted by KRS 199.470(3) *or* (4) ~~or (5)~~, a copy of the
27 written approval of the secretary of the Cabinet for Health and Family Services or

1 the secretary's designee shall be filed with the petition.

2 ➔Section 12. KRS 625.040 is amended to read as follows:

- 3 (1) A petition for the voluntary termination of parental rights shall be entitled "In the
4 interest of..., a child." The petition may be filed by a parent or counsel when the
5 appearance-waiver and consent-to-adopt forms are signed by the parent, counsel,
6 and cabinet representative under the conditions described in KRS 625.041(3) and
7 (4).
- 8 (2) The petition for the voluntary termination of parental rights shall be filed in the
9 Circuit Court of the judicial circuit where the petitioner or child resides or in the
10 Circuit Court in the county in which juvenile court actions, if any, concerning the
11 child have commenced, and shall be verified and contain the following:
- 12 (a) Name and place of residence of each petitioner;
 - 13 (b) Name, sex, date of birth, and place of residence of the child;
 - 14 (c) Name and relationship of each petitioner to the child;
 - 15 (d) A concise statement of the factual basis for the termination of parental rights;
 - 16 (e) Name and address of the person or of the cabinet or authorized agency to
17 which parental rights are sought to be transferred; and
 - 18 (f) A statement that the person, cabinet, or authorized agency to whom custody is
19 to be given has facilities available, is willing to receive the custody of the
20 child, and the person, if not excepted by KRS 199.470(3) or (4) ~~or (5)~~, has
21 applied for the written permission of the secretary or the secretary's designee
22 for the child's placement. This provision shall not affect the right of a court to
23 grant temporary custody under KRS 199.473.
- 24 (3) No petition may be filed under this chapter prior to three (3) days after the birth of
25 the child.

26 ➔Section 13. KRS 625.042 is amended to read as follows:

- 27 (1) Within three (3) days after a petition for the voluntary termination of parental rights

1 is filed, the Circuit Court shall set a date for a hearing which shall not be more than
2 thirty (30) calendar days after the petition is filed. In any case in which the child's
3 permanent custody is proposed to be transferred to an individual not excepted by
4 KRS 199.470(3) *or* (4) ~~or (5)~~, a final order of termination shall be entered only if
5 the proposed custodian has received the written approval of the secretary or the
6 secretary's designee for the child's placement as required by KRS 199.473.

7 (2) The Circuit Court shall require notice to be served upon the local representative of
8 the cabinet in any case in which a statement from the cabinet of willingness to
9 accept custody of the child has not been filed with the petition, or custody of the
10 child is to be placed with an individual unless the placement has been approved by
11 the cabinet. It shall not be necessary to serve notice upon the cabinet if custody of
12 the child is to be placed with the cabinet or with a child-placing agency.

13 (3) Proceedings under this chapter shall be completed as soon as practicable. All
14 hearings shall be held before the Circuit Court privately for the purpose of
15 determining the facts.

16 (4) An official stenographic or mechanical record shall be made of the proceedings and
17 retained for a period of five (5) years.

18 (5) The best interests of the child shall be considered paramount, including but not
19 limited to matters relating to child support.

20 (6) At the time of the hearing, the Circuit Court, after full and complete inquiry, shall
21 determine whether each petitioner is fully aware of the purpose of the proceedings
22 and the consequences of the provisions of this chapter.

23 ➔Section 14. KRS 625.043 is amended to read as follows:

24 (1) If the Circuit Court determines that parental rights are to be voluntarily terminated
25 in accordance with the provisions of this chapter, it shall make an order terminating
26 all parental rights and obligations of the parent and releasing the child from all legal
27 obligations to the parent and vesting care and custody of the child in the person,

1 agency, or cabinet the court believes is best qualified to receive custody.

2 (2) Upon consent by the Cabinet for Health and Family Services, the child may be
3 declared a ward of the state and custody vested in the cabinet or in any child-placing
4 agency or child-caring facility licensed by the cabinet or in another person if all
5 persons with parental rights to the child under the law have had their rights
6 terminated voluntarily or involuntarily. If the other person is not excepted by KRS
7 199.470(3) **or** (4) ~~or (5)~~, a grant of permanent custody shall be made only if the
8 proposed custodian has received the written approval of the secretary or the
9 secretary's designee for the child's placement.

10 ➔Section 15. KRS 199.011 is amended to read as follows:

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

12 (1) "Secretary" means the secretary for health and family services;

13 (2) "Cabinet" means the Cabinet for Health and Family Services;

14 (3) "Department" means the Department for Community Based Services;

15 (4) "Child" means any person who has not reached his eighteenth birthday;

16 (5) "Adult adopted person" means any adopted person who is twenty-one (21) years of
17 age or older;

18 (6) "Child-caring facility" means any institution or group home, including institutions
19 and group homes that are publicly operated, providing residential care on a twenty-
20 four (24) hour basis to children, not related by blood, adoption, or marriage to the
21 person maintaining the facility, other than an institution or group home certified by
22 an appropriate agency as operated primarily for educational or medical purposes, or
23 a residential program operated or contracted by the Department of Juvenile Justice
24 that maintains accreditation, or obtains accreditation within two (2) years of
25 opening from a nationally recognized accrediting organization;

26 (7) "Child-placing agency" means any agency licensed by the cabinet which supervises
27 the placement of children in foster family homes or child-caring facilities, or which

- 1 places children for adoption;
- 2 (8) "Adoption worker" means an employee of the cabinet so designated by the secretary
3 for health and family services, a social worker employed by a county or city who
4 has been approved by the cabinet to handle, under its supervision, adoption
5 placement services to children, or a social worker employed by or under contract to
6 a child-placing adoption agency;
- 7 (9) "Foster family home" means a private home in which children are placed for foster
8 family care under supervision of the cabinet or of a licensed child-placing agency;
- 9 (10) "Group home" means a homelike facility, excluding Department of Juvenile Justice
10 operated or contracted facilities, for not more than eight (8) foster children, not
11 adjacent to or part of an institutional campus, operated by a sponsoring agency for
12 children who may participate in community activities and use community resources;
- 13 (11) "Institution" means a child-caring facility providing care or maintenance for nine (9)
14 or more children;
- 15 (12) "Family rehabilitation home" means a child-caring facility for appropriate families
16 and comprising not more than twelve (12) children and two (2) staff persons;
- 17 (13) "Placement services" means those social services customarily provided by a
18 licensed child-placing or a public agency which are necessary for the arrangement
19 and placement of children in foster family homes, child-placing facilities, or
20 adoptive homes. Placement services are provided through a licensed child-placing
21 or a public agency for children who cannot be cared for by their biological parents
22 and who need and can benefit from new and permanent family ties established
23 through legal adoption. Licensed child-placing agencies and public agencies have a
24 responsibility to act in the best interests of children, biological parents, and adoptive
25 parents by providing social services to all the parties involved in an adoption;
- 26 (14) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.
27 sec. 675(10); and

- 1 (15) "Voluntary and informed consent" means that at the time of the execution of the
2 consent the consenting person was fully informed of the legal effect of the consent,
3 that the consenting person was not given or promised anything of value except those
4 expenses allowable under KRS 199.590(6), that the consenting person was not
5 coerced in any way to execute the consent, and that the consent was voluntarily and
6 knowingly given. If at the time of the execution of the consent the consenting
7 person was represented by independent legal counsel, there shall be a presumption
8 that the consent was voluntary and informed. The consent shall be in writing, signed
9 and sworn to by the consenting person and include the following:
- 10 (a) Date, time, and place of the execution of the consent;
- 11 (b) Name of the child, if any, to be adopted and the date and place of the child's
12 birth;
- 13 (c) Consenting person's relationship to the child;
- 14 (d) Identity of the proposed adoptive parents or a statement that the consenting
15 person does not desire to know the identification of the proposed adoptive
16 parents;
- 17 (e) A statement that the consenting person understands that the consent will be
18 final and irrevocable under this paragraph unless withdrawn under this
19 paragraph.
- 20 1. If placement approval by the secretary is required, the voluntary and
21 informed consent shall become final and irrevocable upon ~~twenty (20)~~
22 ~~days after~~ the later of the placement approval or the execution of the
23 voluntary and informed consent. ~~This consent may be withdrawn only~~
24 ~~by written notification sent to the proposed adoptive parent or the~~
25 ~~attorney for the proposed adoptive parent on or before the twentieth day~~
26 ~~by certified or registered mail and also by first class mail.]~~
- 27 2. If placement approval by the secretary is not required, the voluntary and

1 informed consent shall become final and irrevocable upon ~~[twenty (20)~~
 2 ~~days after]~~the execution of the voluntary and informed consent~~]. This~~
 3 ~~consent may be withdrawn only by written notification sent to the~~
 4 ~~proposed adoptive parent or the attorney for the proposed adoptive~~
 5 ~~parent on or before the twentieth day by certified or registered mail and~~
 6 ~~also by first class mail];~~

- 7 (f) Disposition of the child if the adoption is not adjudged;
- 8 (g) A statement that the consenting person has received a completed and signed
 9 copy of the consent at the time of the execution of the consent;
- 10 (h) Name and address of the person who prepared the consent, name and address
 11 of the person who reviewed and explained the consent to the consenting
 12 person, and a verified statement from the consenting person that the consent
 13 has been reviewed with and fully explained to the consenting person; and
- 14 (i) Total amount of the consenting person's legal fees, if any, for any purpose
 15 related to the execution of the consent and the source of payment of the legal
 16 fees.

17 ➔Section 16. KRS 199.502 is amended to read as follows:

- 18 (1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted
 19 without the consent of the biological living parents of a child if it is pleaded and
 20 proved as part of the adoption proceeding that any of the following conditions exist
 21 with respect to the child:
- 22 (a) That the parent has abandoned the child for a period of not less than ninety
 23 (90) days;
- 24 (b) That the parent had inflicted or allowed to be inflicted upon the child, by other
 25 than accidental means, serious physical injury;
- 26 (c) That the parent has continuously or repeatedly inflicted or allowed to be
 27 inflicted upon the child, by other than accidental means, physical injury or

- 1 emotional harm;
- 2 (d) That the parent has been convicted of a felony that involved the infliction of
3 serious physical injury to a child named in the present adoption proceeding;
- 4 (e) That the parent, for a period of not less than six (6) months, has continuously
5 or repeatedly failed or refused to provide or has been substantially incapable
6 of providing essential parental care and protection for the child, and that there
7 is no reasonable expectation of improvement in parental care and protection,
8 considering the age of the child;
- 9 (f) That the parent has caused or allowed the child to be sexually abused or
10 exploited;
- 11 (g) That the parent, for reasons other than poverty alone, has continuously or
12 repeatedly failed to provide or is incapable of providing essential food,
13 clothing, shelter, medical care, or education reasonably necessary and
14 available for the child's well-being and that there is no reasonable expectation
15 of significant improvement in the parent's conduct in the immediately
16 foreseeable future, considering the age of the child;
- 17 (h) That:
- 18 1. The parent's parental rights to another child have been involuntarily
19 terminated;
- 20 2. The child named in the present adoption proceeding was born
21 subsequent to or during the pendency of the previous termination; and
- 22 3. The condition or factor which was the basis for the previous termination
23 finding has not been corrected; ~~{or}~~
- 24 (i) That the parent has been convicted in a criminal proceeding of having caused
25 or contributed to the death of another child as a result of physical or sexual
26 abuse or neglect; or
- 27 **(j) That the parent is a putative father, as defined in Section 1 of this Act, who**

1 *fails to register as the minor's putative father with the putative father*
2 *registry established under Section 1 of this Act or the court finds, after*
3 *proper service of notice and hearing, that:*

- 4 *1. The putative father is not the father of the minor;*
5 *2. The putative father has willfully abandoned or failed to care for and*
6 *support the minor; or*
7 *3. The putative father has willfully abandoned the mother of the minor*
8 *during her pregnancy and up to the time of her surrender of the*
9 *minor, or the minor's placement in the home of the petitioner,*
10 *whichever occurs first.*

11 (2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
12 findings of fact, conclusions of law, and a decision either:

- 13 (a) Granting the adoption without the biological parent's consent; or
14 (b) Dismissing the adoption petition, and stating whether the child shall be
15 returned to the biological parent or the child's custody granted to the state,
16 another agency, or the petitioner.