

1 AN ACT relating to the rights of parents.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "parent" has the same meaning as in KRS 600.020.*

6 *(2) Unless rights have been legally waived or legally terminated, parents have*
7 *inalienable rights that are more comprehensive than those listed in this section.*

8 *This section does not prescribe all rights of parents, nor does it preempt or*
9 *foreclose claims or remedies in support of parental rights that are available under*
10 *the Constitution, statutes, or laws of the Commonwealth.*

11 *(3) All parental rights are exclusively reserved for a parent of a minor child without*
12 *obstruction or interference from the Commonwealth or any political subdivision*
13 *of the Commonwealth, any other governmental entity, or any other institution.*
14 *Except as specifically prohibited or permitted by federal or other state law, a*
15 *parent shall have the following rights, including but not limited to:*

16 *(a) Direct the education of the minor child;*

17 *(b) Access and review all school records relating to the minor child;*

18 *(c) Direct the upbringing of the minor child;*

19 *(d) Direct the moral or religious training of the minor child;*

20 *(e) Make and consent in writing to all physical and mental healthcare decisions*
21 *for the minor child;*

22 *(f) Access and review all medical records of the minor child, unless the parent*
23 *is the subject of an investigation of a crime committed against the minor*
24 *child and a law enforcement official requests that the information not be*
25 *released;*

26 *(g) Consent in writing before a biometric scan of the minor child is made,*
27 *shared, or stored;*

- 1 (h) Consent in writing before any record of the minor child's blood or
2 deoxyribonucleic acid is created, stored, or shared, unless authorized
3 pursuant to a court order or an ongoing criminal investigation;
- 4 (i) Consent in writing before any governmental entity makes a video or voice
5 recording of the minor child, unless the video or voice recording is made
6 during or as a part of a court proceeding, by law enforcement officers
7 during or as part of a law enforcement investigation, during or as part of a
8 forensic interview in a criminal or Cabinet for Health and Family Services
9 investigation, or to be used solely for any of the following:
- 10 1. Safety demonstrations, including the maintenance of order and
11 discipline in the common areas of a school or on student
12 transportation vehicles;
- 13 2. A purpose related to a legitimate academic or extracurricular activity;
- 14 3. A purpose related to regular classroom instruction;
- 15 4. Security or surveillance of buildings or grounds; and
- 16 5. A photo identification card.
- 17 (j) Be notified promptly if an employee of the Commonwealth or any political
18 subdivision of the Commonwealth, any other governmental entity, or any
19 other institution suspects that a criminal offense has been committed
20 against the minor child by someone other than a parent, unless the incident
21 has first been reported to law enforcement and notification of the parent
22 would impede a law enforcement or Cabinet for Health and Family Services
23 investigation.
- 24 (4) The Commonwealth or any political subdivision of the Commonwealth, any other
25 governmental entity, or any other institution shall not infringe on the
26 fundamental right of parents to direct the upbringing, education, health care,
27 and mental health of their minor children without demonstrating that the

1 infringement is required by a compelling governmental interest of the highest
2 order as applied to the minor child, is narrowly tailored, and is not otherwise
3 served by a less restrictive means. This section does not prohibit the
4 Commonwealth or any political subdivision of the Commonwealth, any other
5 governmental entity, or any other institution from taking actions that are
6 otherwise permitted or required by applicable federal or state law.

7 (5) This section does not authorize or allow a parent to abuse or neglect a child as
8 described in KRS 600.020(1). This section does not prohibit a court from issuing
9 an order that is otherwise permitted by law.

10 (6) This section does not authorize or allow a parent to not sign an affidavit as
11 required pursuant to KRS 402.205(1)(c) relating to marriage.

12 (7) Employees of the Commonwealth or any political subdivision of the
13 Commonwealth, any other governmental entity, or any other institution, except
14 for law enforcement personnel, shall not:

15 (a) Encourage or coerce a minor child to withhold information from the minor
16 child's parent; or

17 (b) Except as required or permitted by other applicable federal or other state
18 law, withhold from a minor child's parents information that is relevant to the
19 physical or mental health of their minor child and of a sort that parents
20 interested in and responsible for the well-being of a minor child reasonably
21 would demand and should be apprised of.

22 (8) A parent may bring action against the Commonwealth or any political
23 subdivision of the Commonwealth, any other governmental entity, or any other
24 institution for violations of this section. In any such action, the Commonwealth
25 or any political subdivision of the Commonwealth, any other governmental entity,
26 or any other institution has the burden of proof to demonstrate that:

27 (a) Interference or usurpation is essential to accomplish a compelling interest

1 of the highest order, as long recognized in the history and traditions of the
2 Commonwealth in the operation of its regulatory powers; and

3 (b) The method of intervention or usurpation used is narrowly tailored and is
4 not otherwise served by a less restrictive means.

5 (9) The intervention or usurpation shall only be allowed to stand if the
6 Commonwealth or any political subdivision of the Commonwealth, any other
7 governmental entity, or any other institution is successful in demonstrating both
8 elements set forth in subsection (8)(a) and (b) of this section. Otherwise, a court
9 shall grant appropriate relief, such as declaratory or injunctive relief,
10 compensatory damages, and attorney's fees based on the facts of the cases and
11 law as applied to the facts.

12 (10) Any parent may raise a violation of this section in state or federal court of
13 appropriate jurisdiction as a claim or a defense.

14 ➔Section 2. This Act shall be known and may be cited as the Parents Rights Act.