

1 AN ACT relating to guardian ad litem.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The Office of Child and Family Advocacy is hereby established as an*
6 *independent agency of state government and is attached for administrative*
7 *purposes to the Finance and Administration Cabinet to provide a state-sponsored*
8 *and controlled system for guardians ad litem and court-appointed counsel.*

9 *(2) The Child and Family Advocacy Commission is hereby created and shall:*

10 *(a) Receive applications, interview, and recommend to the Governor three (3)*
11 *attorneys as nominees for appointment as the child and family advocate;*

12 *(b) Assist the child and family advocate in drawing up procedures for the*
13 *selection of his or her staff;*

14 *(c) Review the performance of the guardian ad litem and court-appointed*
15 *counsel system and provide general supervision of the child and family*
16 *advocate;*

17 *(d) Assist the Office of Child and Family Advocacy in ensuring its*
18 *independence through public education regarding the purposes of*
19 *guardians ad litem and court-appointed counsel; and*

20 *(e) Review and adopt an annual budget prepared by the child and family*
21 *advocate for the system and provide support for budgetary requests to the*
22 *General Assembly.*

23 *(3) The Child and Family Advocacy Commission shall consist of the following*
24 *members who shall serve terms of four (4) years, except the initial terms shall be*
25 *established as provided in subsection (4) of this section:*

26 *(a) Two (2) members appointed by the Governor;*

27 *(b) The Attorney General or his or her designee;*

- 1 (c) One (1) member appointed by the President of the Senate; and
2 (d) One (1) member appointed by the Speaker of the House of Representatives.
3 Appointed members shall be either child advocates or persons with substantial
4 experience in the representation of minors or disabled adults.
- 5 (4) At the first meeting of the commission, a drawing by lot shall be conducted to
6 determine the length of each original member's term. Initially there shall be one
7 (1) two (2) year term, two (2) three (3) year terms, and two (2) four (4) year terms.
8 Vacancies in the membership of the commission shall be filled in the same
9 manner as original appointments. Appointments to fill vacancies occurring
10 before the expiration of a term shall be for the remainder of the unexpired term.
- 11 (5) The commission shall first meet at the call of the Governor and thereafter as the
12 commission shall determine on a regular basis, but at least quarterly, and shall
13 be presided over by a chairperson elected by its members for a one (1) year term.
14 A majority of commission members shall constitute a quorum, and decisions
15 shall require the majority vote of those present; except that a recommendation to
16 the Governor pertaining to the appointment, renewal of the appointment, or
17 removal of the child and family advocate shall require a majority vote of the
18 commission. Each member of the commission shall have one (1) vote, and voting
19 by proxy shall be prohibited.
- 20 (6) The child and family advocate shall, upon appointment or renewal, be an ex
21 officio member of the commission without the power to vote, shall serve as
22 secretary of the commission, and shall be entitled to attend and participate in all
23 meetings of the commission except discussions relating to renewal of his or her
24 term or his or her removal.
- 25 (7) Commission members shall be reimbursed for reasonable and necessary expenses
26 incurred while engaged in carrying out the duties of the commission and shall
27 receive one hundred dollars (\$100) per day for each meeting attended unless

1 prohibited by law from receiving such compensation.

2 (8) In no event shall the commission or its members interfere with the discretion,
 3 judgment, or advocacy of employees of the Office of Child and Family Advocacy
 4 in their handling of individual cases.

5 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO
 6 READ AS FOLLOWS:

7 (1) The Office of Child and Family Advocacy shall consist of the child and family
 8 advocate and such assistant child and family advocates as the child and family
 9 advocate shall deem necessary, and such secretarial and other personnel as the
 10 child and family advocate shall deem necessary.

11 (2) (a) The child and family advocate shall be appointed by the Governor from a
 12 list of three (3) attorneys submitted to him or her by the Child and Family
 13 Advocacy Commission and shall be an attorney licensed to practice law in
 14 Kentucky with at least five (5) years of experience in the practice of law who
 15 has:

16 1. Served as a guardian ad litem in at least twenty (20) dependency,
 17 neglect, or abuse proceedings;
 18 2. Familiarity with the role, purpose, and function of guardians ad litem
 19 and court-appointed counsel in both juvenile and district courts; and
 20 3. The ability to develop training curricula.

21 (b) The child and family advocate shall, prior to or immediately after being
 22 appointed, be trained in nationally recognized standards for a guardian ad
 23 litem and court-appointed counsel.

24 (3) The assistant child and family advocates shall be attorneys and shall be appointed
 25 by the child and family advocate. However, notwithstanding any statute to the
 26 contrary, the assistant child and family advocates shall not be covered by the
 27 merit system and shall not be subject to the provisions of KRS 12.210.

1 (4) Notwithstanding any statute to the contrary, secretarial, clerical, and other
2 personnel shall be appointed by the child and family advocate and shall not be
3 covered by the merit system.

4 (5) Employees of the Office of Child and Family Advocacy, including the child and
5 family advocate, shall not participate in Kentucky's public employee retirement
6 systems.

7 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO
8 READ AS FOLLOWS:

9 The authority and duties of the Office of Child and Family Advocacy shall include but
10 are not limited to:

11 (1) Administering a statewide guardian ad litem and court-appointed counsel
12 program;

13 (2) Establishing policy and procedure for the management of a statewide guardian
14 ad litem and court-appointed counsel program, including developing and
15 promulgating administrative regulations to carry out the provisions of Sections 1
16 to 3 and 8 of this Act;

17 (3) Managing the guardian ad litem and court-appointed counsel program to ensure
18 that:

19 (a) Minors receive qualified guardian ad litem services in dependency, neglect,
20 or abuse proceedings; and

21 (b) Disabled adults and others receive qualified court-appointed counsel;
22 in accordance with state and federal law and policy.

23 (4) Determining necessary personnel and appointing assistant child and family
24 advocates who shall be guardians ad litem and court-appointed counsel;

25 (5) Establishing the number and location of offices throughout the Commonwealth
26 that shall provide guardians ad litem and court-appointed counsel for the
27 Commonwealth's minors and disabled adults;

- 1 (6) Being authorized to assign a contract attorney and to develop standards to employ
2 or contract with attorneys licensed to practice law in Kentucky, to act as
3 guardians ad litem and court-appointed counsel;
- 4 (7) Developing and providing training programs for volunteers in accordance with
5 the United States Department of Justice National Court Appointed Special
6 Advocates Association standards;
- 7 (8) Developing and updating a guardian ad litem and court-appointed counsel
8 manual that includes:
9 (a) Best practices for a guardian ad litem and court-appointed counsel; and
10 (b) Statutory, regulatory, and case law relating to a guardian ad litem and
11 court-appointed counsel;
- 12 (9) Developing and providing a library of materials for the continuing education of
13 guardians ad litem, court-appointed counsel, and volunteers;
- 14 (10) Providing resources to educate court personnel regarding the role and function
15 of guardians ad litem and court-appointed counsel;
- 16 (11) Developing needs assessment strategies, performing needs assessment surveys,
17 and ensuring that guardian ad litem and court-appointed counsel training
18 programs correspond with actual and perceived needs for training;
- 19 (12) Designing and implementing evaluation tools based on specific objectives
20 targeted in the needs assessments described in subsection (10) of this section;
- 21 (13) Being authorized to pursue legal, administrative, and other appropriate remedies
22 to ensure the protection of the rights of children and disabled adults;
- 23 (14) Being authorized to purchase liability insurance for the protection of all full-time
24 child and family advocates and assistant child and family advocates to protect
25 them from liability for malpractice arising in the course or scope of employment
26 and for the protection of attorneys with whom the Office of Child and Family
27 Advocacy contracts to protect them from liability for malpractice arising in the

1 course or scope of the contract;

2 (15) Being authorized to seek, apply for, and solicit funds for the operation of the
 3 guardian ad litem and court-appointed counsel program from any source, public
 4 or private, and to receive donations, grants, awards, and similar funds from any
 5 legal source. Those funds shall be placed in a special account for the Office of
 6 Child and Family Advocacy and, notwithstanding KRS 45.229, those funds shall
 7 not lapse;

8 (16) Preparing and submitting an annual report, by January 1 of each year, to the
 9 Child and Family Advocacy Commission and the Legislative Research
 10 Commission regarding:

11 (a) The development, policy, and management of the statewide guardian ad
 12 litem and court-appointed counsel program;

13 (b) The training and evaluation of guardians ad litem, court-appointed counsel,
 14 and volunteers; and

15 (c) The number of cases assigned to the office as well as the number of minors
 16 and disabled adults served by the office; and

17 (17) Doing other activities and institute other programs as necessary to carry out the
 18 provisions of Sections 1 to 3 of this Act, or those decisions or statutes which are
 19 the subject of this section.

20 ➔Section 4. KRS 61.510 is amended to read as follows:

21 As used in KRS 61.510 to 61.705, unless the context otherwise requires:

22 (1) "System" means the Kentucky Employees Retirement System created by KRS
 23 61.510 to 61.705;

24 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;

25 (3) "Department" means any state department or board or agency participating in the
 26 system in accordance with appropriate executive order, as provided in KRS 61.520.

27 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the

1 General Assembly and any other body, entity, or instrumentality designated by
2 executive order by the Governor, shall be deemed to be a department,
3 notwithstanding whether said body, entity, or instrumentality is an integral part of
4 state government;

5 (4) "Examiner" means the medical examiners as provided in KRS 61.665;

6 (5) "Employee" means the members, officers, and employees of the General Assembly
7 and every regular full-time, appointed or elective officer or employee of a
8 participating department, including the Department of Military Affairs. The term
9 does not include persons engaged as independent contractors, seasonal, emergency,
10 temporary, interim,~~and~~ part-time workers, or employees of the Office of Child
11 and Family Advocacy. In case of any doubt, the board shall determine if a person is
12 an employee within the meaning of KRS 61.510 to 61.705;

13 (6) "Employer" means a department or any authority of a department having the power
14 to appoint or select an employee in the department, including the Senate and the
15 House of Representatives, or any other entity, the employees of which are eligible
16 for membership in the system pursuant to KRS 61.525;

17 (7) "State" means the Commonwealth of Kentucky;

18 (8) "Member" means any employee who is included in the membership of the system or
19 any former employee whose membership has not been terminated under KRS
20 61.535;

21 (9) "Service" means the total of current service and prior service as defined in this
22 section;

23 (10) "Current service" means the number of years and months of employment as an
24 employee, on and after July 1, 1956, except that for members, officers, and
25 employees of the General Assembly this date shall be January 1, 1960, for which
26 creditable compensation is paid and employee contributions deducted, except as
27 otherwise provided, and each member, officer, and employee of the General

1 Assembly shall be credited with a month of current service for each month he
2 serves in the position;

3 (11) "Prior service" means the number of years and completed months, expressed as a
4 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
5 creditable compensation was paid; except that for members, officers, and employees
6 of the General Assembly, this date shall be January 1, 1960. An employee shall be
7 credited with one (1) month of prior service only in those months he received
8 compensation for at least one hundred (100) hours of work; provided, however, that
9 each member, officer, and employee of the General Assembly shall be credited with
10 a month of prior service for each month he served in the position prior to January 1,
11 1960. Twelve (12) months of current service in the system are required to validate
12 prior service;

13 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
14 from the compensation of a member and credited to his individual account in the
15 members' account, including employee contributions picked up after August 1,
16 1982, pursuant to KRS 61.560(4), together with interest credited, or investment
17 returns earned as provided by KRS 61.5956, on such amounts and any other
18 amounts the member shall have contributed thereto, including interest credited
19 thereon or investment returns earned as provided by KRS 61.5956. "Accumulated
20 contributions" shall not include employee contributions that are deposited into
21 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established
22 in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

23 (13) "Creditable compensation":

24 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary,
25 wages, tips to the extent the tips are reported for income tax purposes, and
26 fees, including payments for compensatory time, paid to the employee as a
27 result of services performed for the employer or for time during which the

1 member is on paid leave, which are includable on the member's federal form
2 W-2 wage and tax statement under the heading "wages, tips, other
3 compensation," including employee contributions picked up after August 1,
4 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it
5 shall mean all amounts which are includable on the member's federal form W-
6 2 wage and tax statement under the heading "wages, tips, other
7 compensation," including employee contributions picked up after August 1,
8 1982, pursuant to KRS 6.505(4) or 61.560(4);

9 (b) Includes:

- 10 1. Lump-sum bonuses, severance pay, or employer-provided payments for
11 purchase of service credit, which shall be averaged over the employee's
12 total service with the system in which it is recorded if it is equal to or
13 greater than one thousand dollars (\$1,000);
- 14 2. Cases where compensation includes maintenance and other perquisites,
15 but the board shall fix the value of that part of the compensation not paid
16 in money;
- 17 3. Lump-sum payments for creditable compensation paid as a result of an
18 order of a court of competent jurisdiction, the Personnel Board, or the
19 Commission on Human Rights, or for any creditable compensation paid
20 in anticipation of settlement of an action before a court of competent
21 jurisdiction, the Personnel Board, or the Commission on Human Rights,
22 including notices of violations of state or federal wage and hour statutes
23 or violations of state or federal discrimination statutes, which shall be
24 credited to the fiscal year during which the wages were earned or should
25 have been paid by the employer. This subparagraph shall also include
26 lump-sum payments for reinstated wages pursuant to KRS 61.569,
27 which shall be credited to the period during which the wages were

1 earned or should have been paid by the employer;

2 4. Amounts which are not includable in the member's gross income by
3 virtue of the member having taken a voluntary salary reduction provided
4 for under applicable provisions of the Internal Revenue Code; and

5 5. Elective amounts for qualified transportation fringes paid or made
6 available on or after January 1, 2001, for calendar years on or after
7 January 1, 2001, that are not includable in the gross income of the
8 employee by reason of 26 U.S.C. sec. 132(f)(4); and

9 (c) Excludes:

10 1. Uniform, equipment, or any other expense allowances paid on or after
11 January 1, 2019, living allowances, expense reimbursements, lump-sum
12 payments for accrued vacation leave, and other items determined by the
13 board;

14 2. For employees who begin participating on or after September 1, 2008,
15 lump-sum payments for compensatory time;

16 3. For employees participating in a nonhazardous position who began
17 participating prior to September 1, 2008, and who retire after July 1,
18 2023, lump-sum payments for compensatory time upon termination of
19 employment; and

20 4. For employees who begin participating on or after August 1, 2016,
21 nominal fees paid for services as a volunteer;

22 (14) "Final compensation" of a member means:

23 (a) For a member who begins participating before September 1, 2008, who is
24 employed in a nonhazardous position, the creditable compensation of the
25 member during the five (5) fiscal years he was paid at the highest average
26 monthly rate divided by the number of months of service credit during that
27 five (5) year period multiplied by twelve (12). The five (5) years may be

1 fractional and need not be consecutive, except that for members retiring on or
2 after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If
3 the number of months of service credit during the five (5) year period is less
4 than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or
5 more additional fiscal years shall be used. If a member retiring on or after
6 January 1, 2019, does not have five (5) complete fiscal years that each contain
7 twelve (12) months of service credit, then one (1) or more additional fiscal
8 years, which may contain less than twelve (12) months of service credit, shall
9 be added until the number of months in the final compensation calculation is
10 at least sixty (60) months;

11 (b) For a member who is employed in a nonhazardous position, whose effective
12 retirement date is between August 1, 2001, and January 1, 2009, and whose
13 total service credit is at least twenty-seven (27) years and whose age and years
14 of service total at least seventy-five (75), final compensation means the
15 creditable compensation of the member during the three (3) fiscal years the
16 member was paid at the highest average monthly rate divided by the number
17 of months of service credit during that three (3) years period multiplied by
18 twelve (12). The three (3) years may be fractional and need not be
19 consecutive. If the number of months of service credit during the three (3)
20 year period is less than twenty-four (24), one (1) or more additional fiscal
21 years shall be used. Notwithstanding the provision of KRS 61.565, the
22 funding for this paragraph shall be provided from existing funds of the
23 retirement allowance;

24 (c) For a member who begins participating before September 1, 2008, who is
25 employed in a hazardous position, as provided in KRS 61.592, and who
26 retired prior to January 1, 2019, the creditable compensation of the member
27 during the three (3) fiscal years he was paid at the highest average monthly

1 rate divided by the number of months of service credit during that three (3)
2 year period multiplied by twelve (12). The three (3) years may be fractional
3 and need not be consecutive. If the number of months of service credit during
4 the three (3) year period is less than twenty-four (24), one (1) or more
5 additional fiscal years shall be used;

6 (d) For a member who begins participating on or after September 1, 2008, but
7 prior to January 1, 2014, who is employed in a nonhazardous position, the
8 creditable compensation of the member during the five (5) complete fiscal
9 years immediately preceding retirement divided by five (5). Each fiscal year
10 used to determine final compensation must contain twelve (12) months of
11 service credit. If the member does not have five (5) complete fiscal years that
12 each contain twelve (12) months of service credit, then one (1) or more
13 additional fiscal years, which may contain less than twelve (12) months of
14 service credit, shall be added until the number of months in the final
15 compensation calculation is at least sixty (60) months; or

16 (e) For a member who begins participating on or after September 1, 2008, but
17 prior to January 1, 2014, who is employed in a hazardous position as provided
18 in KRS 61.592, or for a member who begins participating prior to September
19 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,
20 who retires on or after January 1, 2019, the creditable compensation of the
21 member during the three (3) complete fiscal years he was paid at the highest
22 average monthly rate divided by three (3). Each fiscal year used to determine
23 final compensation must contain twelve (12) months of service credit. If the
24 member does not have three (3) complete fiscal years that each contain twelve
25 (12) months of service credit, then one (1) or more additional fiscal years,
26 which may contain less than twelve (12) months of service credit, shall be
27 added until the number of months in the final compensation calculation is at

- 1 least thirty-six (36) months;
- 2 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
3 calculated during the twelve (12) month period immediately preceding the
4 member's effective retirement date, including employee contributions picked up
5 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
6 system by the employer and the following equivalents shall be used to convert the
7 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
8 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
9 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
10 one (1) year;
- 11 (16) "Retirement allowance" means the retirement payments to which a member is
12 entitled;
- 13 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
14 basis of the actuarial tables that are adopted by the board. In cases of disability
15 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
16 (10) years to the age of the member, unless the member has chosen the Social
17 Security adjustment option as provided for in KRS 61.635(8), in which case the
18 member's actual age shall be used. For members who began participating in the
19 system prior to January 1, 2014, no disability retirement option shall be less than the
20 same option computed under early retirement;
- 21 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
22 otherwise provided in KRS 61.510 to 61.705;
- 23 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
24 following June 30, which shall also be the plan year. The "fiscal year" shall be the
25 limitation year used to determine contribution and benefit limits as established by
26 26 U.S.C. sec. 415;
- 27 (20) "Officers and employees of the General Assembly" means the occupants of those

1 positions enumerated in KRS 6.150. The term shall also apply to assistants who
2 were employed by the General Assembly for at least one (1) regular legislative
3 session prior to July 13, 2004, who elect to participate in the retirement system, and
4 who serve for at least six (6) regular legislative sessions. Assistants hired after July
5 13, 2004, shall be designated as interim employees;

6 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
7 all positions that average one hundred (100) or more hours per month determined by
8 using the number of months actually worked within a calendar or fiscal year,
9 including all positions except:

10 (a) Seasonal positions, which although temporary in duration, are positions which
11 coincide in duration with a particular season or seasons of the year and which
12 may recur regularly from year to year, the period of time shall not exceed nine
13 (9) months;

14 (b) Emergency positions which are positions which do not exceed thirty (30)
15 working days and are nonrenewable;

16 (c) Temporary positions which are positions of employment with a participating
17 department for a period of time not to exceed nine (9) months and are
18 nonrenewable;

19 (d) Part-time positions which are positions which may be permanent in duration,
20 but which require less than a calendar or fiscal year average of one hundred
21 (100) hours of work per month, determined by using the number of months
22 actually worked within a calendar or fiscal year, in the performance of duty;
23 and

24 (e) Interim positions which are positions established for a one-time or recurring
25 need not to exceed nine (9) months;

26 (22) "Delayed contribution payment" means an amount paid by an employee for
27 purchase of current service. The amount shall be determined using the same formula

1 in KRS 61.5525, and the payment shall not be picked up by the employer. A
2 delayed contribution payment shall be deposited to the member's account and
3 considered as accumulated contributions of the individual member. In determining
4 payments under this subsection, the formula found in this subsection shall prevail
5 over the one found in KRS 212.434;

6 (23) "Parted employer" means a department, portion of a department, board, or agency,
7 such as Outwood Hospital and School, which previously participated in the system,
8 but due to lease or other contractual arrangement is now operated by a publicly held
9 corporation or other similar organization, and therefore is no longer participating in
10 the system. The term "parted employer" shall not include a department, board, or
11 agency that ceased participation in the system pursuant to KRS 61.522;

12 (24) "Retired member" means any former member receiving a retirement allowance or
13 any former member who has filed the necessary documents for retirement benefits
14 and is no longer contributing to the retirement system;

15 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
16 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
17 pay. The rate shall be certified by the employer;

18 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
19 the member in accordance with KRS 61.542 or 61.705 to receive any available
20 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
21 does not mean an estate, trust, or trustee;

22 (27) "Recipient" means the retired member or the person or persons designated as
23 beneficiary by the member and drawing a retirement allowance as a result of the
24 member's death or a dependent child drawing a retirement allowance. An alternate
25 payee of a qualified domestic relations order shall not be considered a recipient,
26 except for purposes of KRS 61.623;

27 (28) "Level dollar amortization method" means a method of determining the annual

- 1 amortization payment on the unfunded actuarial accrued liability that is set as an
2 equal dollar amount over the remaining amortization period as of the actuarial
3 valuation date. Under this method, the unfunded actuarially accrued liability shall
4 be projected to be fully amortized at the conclusion of the amortization period;
- 5 (29) "Increment" means twelve (12) months of service credit which are purchased. The
6 twelve (12) months need not be consecutive. The final increment may be less than
7 twelve (12) months;
- 8 (30) "Person" means a natural person;
- 9 (31) "Retirement office" means the Kentucky Retirement Systems office building in
10 Frankfort;
- 11 (32) "Last day of paid employment" means the last date employer and employee
12 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
13 78.615 to the retirement office in order for the employee to receive current service
14 credit for the month. Last day of paid employment does not mean a date the
15 employee receives payment for accrued leave, whether by lump sum or otherwise, if
16 that date occurs twenty-four (24) or more months after previous contributions;
- 17 (33) "Objective medical evidence" means reports of examinations or treatments; medical
18 signs which are anatomical, physiological, or psychological abnormalities that can
19 be observed; psychiatric signs which are medically demonstrable phenomena
20 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
21 or contact with reality; or laboratory findings which are anatomical, physiological,
22 or psychological phenomena that can be shown by medically acceptable laboratory
23 diagnostic techniques, including but not limited to chemical tests,
24 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 25 (34) "Participating" means an employee is currently earning service credit in the system
26 as provided in KRS 61.543;
- 27 (35) "Month" means a calendar month;

- 1 (36) "Membership date" means:
- 2 (a) The date upon which the member began participating in the system as
- 3 provided in KRS 61.543; or
- 4 (b) For a member electing to participate in the system pursuant to KRS
- 5 196.167(4) who has not previously participated in the system or the Kentucky
- 6 Teachers' Retirement System, the date the member began participating in a
- 7 defined contribution plan that meets the requirements of 26 U.S.C. sec.
- 8 403(b);
- 9 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
- 10 retired member, as defined by subsection (24) of this section;
- 11 (38) "Qualified domestic relations order" means any judgment, decree, or order,
- 12 including approval of a property settlement agreement, that:
- 13 (a) Is issued by a court or administrative agency; and
- 14 (b) Relates to the provision of child support, alimony payments, or marital
- 15 property rights to an alternate payee;
- 16 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
- 17 participant, who is designated to be paid retirement benefits in a qualified domestic
- 18 relations order;
- 19 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
- 20 member's account and interest credited on such amounts as provided by KRS
- 21 16.583 and 61.597;
- 22 (41) "Accumulated account balance" means:
- 23 (a) For members who began participating in the system prior to January 1, 2014,
- 24 the member's accumulated contributions;
- 25 (b) For members who began participating in the system on or after January 1,
- 26 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
- 27 the combined sum of the member's accumulated contributions and the

1 member's accumulated employer credit; or

2 (c) For nonhazardous members who are participating in the 401(a) money
3 purchase plan as provided by KRS 61.5956, the combined sum of the
4 member's accumulated contribution and the member's accumulated employer
5 contribution in the 401(a) money purchase plan;

6 (42) "Volunteer" means an individual who:

7 (a) Freely and without pressure or coercion performs hours of service for an
8 employer participating in one (1) of the systems administered by Kentucky
9 Retirement Systems without receipt of compensation for services rendered,
10 except for reimbursement of actual expenses, payment of a nominal fee to
11 offset the costs of performing the voluntary services, or both; and

12 (b) If a retired member, does not become an employee, leased employee, or
13 independent contractor of the employer for which he or she is performing
14 volunteer services for a period of at least twenty-four (24) months following
15 the retired member's most recent retirement date;

16 (43) "Nominal fee" means compensation earned for services as a volunteer that does not
17 exceed five hundred dollars (\$500) per month. Compensation earned for services as
18 a volunteer from more than one (1) participating employer during a month shall be
19 aggregated to determine whether the compensation exceeds the five hundred dollars
20 (\$500) per month maximum provided by this subsection;

21 (44) "Nonhazardous position" means a position that does not meet the requirements of
22 KRS 61.592 or has not been approved by the board as a hazardous position;

23 (45) "Accumulated employer contribution" means the employer contribution deposited
24 to the member's account and any investment returns on such amounts as provided
25 by KRS 61.5956; and

26 (46) "Monthly average pay" means the higher of the member's monthly final rate of pay
27 or the average monthly creditable compensation earned by the deceased member

1 during his or her last twelve (12) months of employment.

2 ➔Section 5. KRS 209.110 is amended to read as follows:

3 (1) A petition by the cabinet for emergency protective services shall be verified by an
4 authorized representative of the cabinet and shall set forth the name, age, and
5 address of the adult in need of protective services; the nature of the disability of the
6 adult, if determinable; the proposed protective services; the petitioner's reasonable
7 belief, together with the facts supportive thereof, as to the existence of the facts, and
8 the facts showing the petitioner's attempts to obtain the adult's consent to the
9 services and the outcomes of such attempts. The petition and all subsequent court
10 documents shall be entitled: "In the interest of----- , an adult in need of protective
11 services." The petition shall be filed in the court of the adult's residence, or if filed
12 pursuant to KRS 209.130, the court of the county in which the adult is physically
13 located.

14 (2) When a petition for emergency protective services is filed, the court or the clerk
15 shall immediately appoint a guardian ad litem to represent the interest of the adult.
16 The duties of a guardian ad litem representing an adult for whom a petition for
17 emergency protective services has been filed shall include personally interviewing
18 the adult, counseling with the adult with respect to this chapter, informing him of
19 his rights and providing competent representation at all proceedings, and such other
20 duties as the court may order.

21 (3) Following the filing of a petition, a summons shall be issued and served with a copy
22 of the petition, and notice of the time, date and location of the hearing to be held on
23 the petition. Service shall be made upon the adult and his guardian or, if none, his
24 caretaker. Should the adult have no guardian or caretaker, service shall be made
25 upon the adult's guardian ad litem. Notice of the hearing shall be given to the adult's
26 spouse, or, if none, to his adult children or next of kin, unless the court is satisfied
27 that notification would be impractical. Service shall not be made upon any person

1 who is believed to have perpetrated the abuse, neglect, or exploitation. Service of
2 the petition shall be made at least three (3) calendar days prior to the hearing for
3 emergency protective services.

4 (4) The hearing on the petition for an emergency order for protective services shall be
5 heard under the following conditions:

6 (a) The hearing on the petition, in the interests of expedition, may be held in any
7 county within the judicial district or circuit served by the court. The court
8 shall give priority to the holdings of the hearings pursuant to petitions filed
9 under this chapter;

10 (b) The adult or his representative may present evidence and cross-examine
11 witnesses; and

12 (c) The adult or his representative may petition the court to have any order which
13 is entered pursuant to this chapter, set aside or modified for good cause.

14 (5) Where protective services are rendered on the basis of an order pursuant to this
15 section, the cabinet shall submit a report to the court describing the circumstances
16 including the name, place, date, and nature of the services. Such report shall be
17 made at least once or on a monthly basis if protective services are provided the adult
18 for a period of longer than one (1) month.

19 (6) The fee of the guardian ad litem shall be paid by the cabinet not to exceed
20 ~~five~~~~three~~ hundred dollars (\$500)~~(\$300)~~. This fee is not to be paid to attorneys
21 employed by government funded legal services programs.

22 ➔Section 6. KRS 387.305 is amended to read as follows:

23 (1) No appointment of a guardian ad litem shall be made until the defendant is
24 summoned, or until a person is summoned for him, as is authorized by law; nor
25 until an affidavit of the plaintiff, or of his attorney, be filed in court, or with the
26 clerk, showing that the defendant has no guardian, curator, nor conservator, residing
27 in this state, known to the affiant.

- 1 (2) A guardian ad litem must be a regular, practicing attorney of the court and may be
2 appointed by the court, whether a guardian, curator, or conservator appear for the
3 defendant or not. The guardian ad litem may be appointed upon the motion of the
4 plaintiff or of any friend of the defendant; but neither the plaintiff nor his attorney
5 shall be appointed, nor be permitted to suggest the name of the proposed guardian
6 ad litem; and the court may change the guardian so appointed whenever the interest
7 of the infant may appear to require such change.
- 8 (3) It shall be the duty of the guardian ad litem to attend properly to the preparation of
9 the case; and in an ordinary action he may cause as many witnesses to be
10 subpoenaed as he may think proper, subject to the control of the court; and in an
11 equitable action he may take depositions, not, however, exceeding three (3), without
12 leave of the court.
- 13 (4) The court shall allow to the guardian ad litem a reasonable fee, not to exceed five
14 hundred dollars (\$500), for his services, to be paid by the plaintiff and taxed in the
15 costs. The affidavit of such guardian, or of another person, or other competent
16 evidence, is admissible to prove the services rendered, but not to prove their value.
17 The court must decide concerning such value, without reference to the opinions of
18 parties or other witnesses.
- 19 (5) Whether appointed pursuant to this statute or pursuant to a provision of the
20 Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to
21 advocate for the client's best interest in the proceeding through which the guardian
22 ad litem was appointed. Without an appointment, the guardian ad litem shall have
23 no obligation to initiate action or to defend the client in other proceedings.
- 24 ➔Section 7. KRS 620.100 is amended to read as follows:
- 25 (1) If the court determines, as a result of a temporary removal hearing, that further
26 proceedings are required, the court shall advise the child and his parent or other
27 person exercising custodial control or supervision of their right to appointment of

1 separate counsel:

- 2 (a) The court shall appoint counsel for the child to be paid for by the Finance and
3 Administration Cabinet. Counsel shall document participation in training on
4 the role of counsel that includes training in early childhood, child, and
5 adolescent development. The clerk of the court shall arrange for service on all
6 parties, including the local representative of the Cabinet for Health and Family
7 Services, of the order appointing counsel. The fee to be fixed by the court
8 shall not exceed five hundred dollars (\$500); ~~however, if the action has final~~
9 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~
10 ~~dollars (\$250)];~~
- 11 (b) The court shall appoint separate counsel for the parent who exercises custodial
12 control or supervision if the parent is unable to afford counsel pursuant to
13 KRS Chapter 31. The clerk of the court shall arrange for service on all parties,
14 including the local representative of the Cabinet for Health and Family
15 Services, of the order appointing counsel. The parent's counsel shall be
16 provided or paid for by the Finance and Administration Cabinet. The fee to be
17 fixed by the court shall not exceed five hundred dollars (\$500); ~~however, if~~
18 ~~the action has final disposition in the District Court, the fee shall not exceed~~
19 ~~two hundred fifty dollars (\$250)];~~
- 20 (c) The court shall appoint separate counsel for a person claiming to be a de facto
21 custodian, as defined in KRS 403.270, if the person is unable to afford
22 counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for
23 service on all parties, including the local representative of the Cabinet for
24 Health and Family Services, of the order appointing counsel. The person's
25 counsel shall be provided or paid for by the Finance and Administration
26 Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars
27 (\$500); ~~however, if the action has final disposition in the District Court, the~~

- 1 ~~fee shall not exceed two hundred fifty dollars (\$250)];~~
- 2 (d) The court may, in the interest of justice, appoint separate counsel for a
3 nonparent who exercises custodial control or supervision of the child, if the
4 person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of
5 the court shall arrange for service on all parties, including the local
6 representative of the Cabinet for Health and Family Services, of the order
7 appointing counsel. Counsel for the person shall be provided or paid for by the
8 Finance and Administration Cabinet. The fee to be fixed by the court shall not
9 exceed five hundred dollars (\$500)~~]; however, if the action has final~~
10 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~
11 ~~dollars (\$250)]; and~~
- 12 (e) The court may, in the interest of justice, appoint a court-appointed special
13 advocate volunteer to represent the best interests of the child pursuant to KRS
14 620.500 to 620.550. The clerk of the court shall arrange for service on all
15 parties, including the local representative of the cabinet, of the order
16 appointing the court-appointed special advocate volunteer.
- 17 (2) If the court determines that further proceedings are required, the court also shall
18 advise the child and his parent or other person exercising custodial control or
19 supervision that they have a right to not incriminate themselves, and a right to a full
20 adjudicatory hearing at which they may confront and cross-examine all adverse
21 witnesses, present evidence on their own behalf and to an appeal.
- 22 (3) The adjudication shall determine the truth or falsity of the allegations in the
23 complaint. The burden of proof shall be upon the complainant, and a determination
24 of dependency, neglect, and abuse shall be made by a preponderance of the
25 evidence. The Kentucky Rules of Civil Procedure shall apply.
- 26 (4) The disposition shall determine the action to be taken by the court on behalf of the
27 child and his parent or other person exercising custodial control or supervision.

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

6 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO
 7 READ AS FOLLOWS:

8 (1) (a) A court:

9 1. May appoint a guardian ad litem to represent the best interest of a
 10 minor involved in any case before the court; and

11 2. Shall consider the best interest of a minor in determining whether to
 12 appoint a guardian ad litem.

13 (b) A court may appoint court-appointed counsel for disabled adults.

14 (c) In all cases where a guardian ad litem or court-appointed counsel is
 15 appointed, the court shall make a finding that establishes the necessity of
 16 the appointment.

17 (2) A guardian ad litem shall represent the best interest of each child who may
 18 become the subject of a petition alleging dependency, neglect, or abuse, from the
 19 earlier of the day that:

20 (a) The child is removed from the child's home by the Cabinet for Health and
 21 Family Services; or

22 (b) The petition is filed.

23 (3) The child and family advocate shall ensure that each guardian ad litem and
 24 court-appointed counsel employed by the office:

25 (a) Represents the best interest of each client of the office in all venues;

26 (b) Prior to representing any minor or disabled adult before the court, be
 27 trained in:

- 1 1. Applicable statutory, regulatory, and case law; and
- 2 2. Nationally recognized standards for a guardian ad litem and court-
- 3 appointed counsel;
- 4 (c) Conducts or supervises an ongoing, independent investigation in order to
- 5 obtain, first-hand, a clear understanding of the situation and needs of the
- 6 minor or disabled adult;
- 7 (d) 1. Personally meets with the minor or disabled adult, unless:
- 8 a. The minor or disabled adult is outside of the Commonwealth; or
- 9 b. Meeting with the minor or disabled adult would be detrimental to
- 10 the minor or disabled adult;
- 11 2. Personally interviews the minor or disabled adult, unless:
- 12 a. The minor is not old enough to communicate;
- 13 b. The minor or disabled adult lacks the capacity to participate in a
- 14 meaningful interview; or
- 15 c. The interview would be detrimental to the minor or disabled
- 16 adult; and
- 17 3. For those representing a minor, if the minor is placed in an out-of-
- 18 home placement, or is being considered for placement in an out-of-
- 19 home placement, unless it would be detrimental to the minor:
- 20 a. To the extent possible, determines the minor's goals and
- 21 concerns regarding placement; and
- 22 b. Personally assesses or supervises an assessment of the
- 23 appropriateness and safety of the minor's environment in each
- 24 placement;
- 25 (e) Personally attends all review hearings pertaining to the minor's case or the
- 26 disabled adult's case;
- 27 (f) Participates in all appeals, unless excused by order of the court;

1 (g) For those representing a minor, is familiar with local experts who can
2 provide consultation and testimony regarding the reasonableness and
3 appropriateness of efforts made by the Cabinet for Health and Family
4 Services to:

5 1. Maintain a minor in the minor's home; or

6 2. Reunify a child with the child's parent;

7 (h) To the extent possible, and unless it would be detrimental to the minor or
8 disabled adult, personally or through a trained volunteer, paralegal, or
9 other trained staff, keeps the minor or disabled adult advised of:

10 1. The status of the minor's or disabled adult's case;

11 2. All court and administrative proceedings;

12 3. Discussions with, and proposals made by, other parties;

13 4. Court action; and

14 5. The psychiatric, medical, or other treatment or diagnostic services that
15 are to be provided to the minor or disabled adult;

16 (i) For those representing a minor, in cases where a plan for reunification is
17 required, personally or through a trained volunteer, paralegal, or other
18 trained staff, monitors implementation of a minor's plan for reunification
19 and any dispositional orders to determine whether services ordered by the
20 court:

21 1. Are actually provided;

22 2. Are provided in a timely manner; and

23 3. Are accomplishing the intended goal of the services, to the extent an
24 assessment can be made; and

25 (j) Makes all necessary court filings to advance the guardian ad litem's or
26 court-appointed counsel's position regarding the best interest of the child or
27 disabled adult.

- 1 (4) The guardian ad litem or court-appointed counsel shall continue to represent the
2 best interest of the minor or disabled adult until released from that duty by the
3 court.
- 4 (5) (a) A guardian ad litem or court-appointed counsel shall represent the best
5 interest of a minor or disabled adult.
- 6 (b) If the minor's or disabled adult's wishes differ from the attorney's
7 determination of the minor's or disabled adult's best interest, the guardian
8 ad litem shall communicate the minor's or disabled adult's wishes to the
9 court in addition to presenting the attorney's determination of the minor's
10 or disabled adult's best interest.
- 11 (c) A difference between the minor's or disabled adult's wishes and the
12 attorney's determination of best interest may not be considered a conflict of
13 interest for the attorney.
- 14 (d) The guardian ad litem or court-appointed counsel shall disclose the wishes
15 of the child or disabled adult unless the child or disabled adult:
- 16 1. Instructs the guardian ad litem or court-appointed counsel to not
17 disclose the child's or disabled adult's wishes; or
- 18 2. Has not expressed any wishes.
- 19 (e) The court may appoint one (1) guardian ad litem to represent the best
20 interests of more than one (1) child of a marriage.
- 21 (6) A guardian ad litem shall be provided access to all Cabinet for Health and
22 Family Services records regarding the minor at issue and the minor's family.
- 23 (7) (a) A guardian ad litem shall conduct an independent investigation regarding
24 the minor at issue, the minor's family, and what constitutes the best interest
25 of the minor.
- 26 (b) A guardian ad litem or court-appointed counsel may interview the minor's
27 Cabinet for Health and Family Services caseworker but may not:

1 1. Rely exclusively on the conclusions and findings of the Cabinet for
 2 Health and Family Services; or

3 2. Except as provided in paragraph (c) of this subsection, conduct a visit
 4 with the client in conjunction with the visit of a Cabinet for Health
 5 and Family Services caseworker.

6 (c) A guardian ad litem may meet with a client during a team meeting, court
 7 hearing, or similar venue when a Cabinet for Health and Family Services
 8 caseworker is present for a purpose other than the guardian ad litem's or
 9 court-appointed counsel's visit with the client.

10 (8) (a) A guardian ad litem or court-appointed counsel shall maintain current and
 11 accurate records regarding:

12 1. The number of times the attorney has had contact with each minor or
 13 disabled adult; and

14 2. The actions the attorney has taken in representation of the minor's or
 15 disabled adult's best interest.

16 (b) In every hearing where the guardian ad litem or court-appointed counsel
 17 makes a recommendation regarding the best interest of the child or disabled
 18 adult, the court shall require the guardian ad litem or court-appointed
 19 counsel to disclose the factors that form the basis of the recommendation.

20 ➔Section 9. KRS 26A.140 is amended to read as follows:

21 (1) Courts shall implement measures to accommodate the special needs of children
 22 which are not unduly burdensome to the rights of the defendant, including, but not
 23 limited to:

24 (a) Trained guardians ad litem or special advocates, if available, shall be
 25 appointed for all child victims and shall serve in Circuit and District Courts to
 26 offer consistency and support to the child and to represent the child's interests
 27 where needed.

- 1 (b) During trials involving child victims or child witnesses, the environment of
2 the courtroom shall be modified to accommodate children through the use of
3 small chairs, frequent breaks, and the use of age appropriate language.
- 4 (c) Children expected to testify shall be prepared for the courtroom experience by
5 the Commonwealth's or county attorney handling the case with the assistance
6 of the guardian ad litem pursuant to Sections 1 to 3 and 8 of this Act or
7 special advocate.
- 8 (d) In appropriate cases, procedures shall be used to shield children from visual
9 contact with alleged perpetrator.
- 10 (2) The Supreme Court is encouraged to issue rules for the conduct of criminal and
11 civil trials involving child abuse in which a child victim or child witness may testify
12 at the trial.
- 13 ➔Section 10. KRS 49.120 is amended to read as follows:
- 14 (1) All claims must be filed with the commission within one (1) year from the time the
15 claim for relief accrued.
- 16 (2) The claim for relief shall be deemed to accrue at the time of the negligent act with
17 regard to property damage.
- 18 (3) The claim for relief for personal injury shall be deemed to accrue at the time the
19 personal injury is first discovered by the claimant or in the exercise of reasonable
20 care should have been discovered; however, no action for personal injury shall be
21 commenced beyond two (2) years from the date on which the alleged negligent act
22 or omission actually occurred.
- 23 (4) Notwithstanding subsection (3) of this section, the claim for relief for medical
24 malpractice shall be deemed to accrue at the time the personal injury is first
25 discovered by the claimant or in the exercise of reasonable care should have been
26 discovered; however, no action for personal injury as a result of medical
27 malpractice shall be commenced beyond three (3) years from the date on which the

1 alleged negligent act or omission of malpractice actually occurred.

2 (5) If at the time the alleged negligent act or omission occurred or if at the time the
3 claim for relief accrued or thereafter, the claimant is an infant or of unsound mind
4 or under any other legal disability to file suit, a guardian or next friend or committee
5 or other qualified representative shall bring such action in the commission on behalf
6 of such person within the same time limitation set forth herein or the claim is
7 barred, notwithstanding KRS 413.170 and 413.280. If there is no guardian or
8 committee or he is unwilling or unable to act or is himself a claimant, the
9 commission shall appoint a guardian ad litem *pursuant to Sections 1 to 3 and 8 of*
10 *this Act* to represent the interests of the claimant under legal disability. The
11 commission shall allow the guardian ad litem a reasonable fee for his services, to be
12 taxed as costs.

13 ➔Section 11. KRS 91.550 is amended to read as follows:

14 (1) The personal property of infants or persons judicially found to be of unsound mind
15 shall not be distrained for taxes assessed on their real property.

16 (2) The real property of an infant or person judicially found to be of unsound mind shall
17 not, during his disability, after ascertainment of such disability by the city, be sold
18 without the appointment of a guardian ad litem *pursuant to Sections 1 to 3 and 8 of*
19 *this Act* to represent the interest of such person, for less than its certified assessed
20 value on any judgment of sale rendered for taxes and costs alone, where the real
21 property came to the infant or person of unsound mind by descent, distribution or
22 devise, or by gift or settlement of some person then deceased, or where the real
23 property belonged to the person of unsound mind before he became of unsound
24 mind.

25 (3) No entire estate shall be sold, for taxes and costs chargeable to the owner of the
26 particular estate, for less than its certified assessed value, so as to defeat any
27 reversion, remainder or other future estate outstanding, unless the reversioners,

1 remaindermen or holders of other future estates are ascertained and are of full age,
2 and no such entire estate shall ever be put up to sale unless the particular estate of
3 the taxpayer has first been put up and has failed to bring the amount of the taxes and
4 costs.

5 ➔Section 12. KRS 199.500 is amended to read as follows:

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

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

15 (b) The parental rights of the parents have been terminated under KRS Chapter
16 625;

17 (c) The living parents are divorced and the parental rights of one (1) parent have
18 been terminated under KRS Chapter 625 and consent has been given by the
19 parent having custody and control of the child; or

20 (d) The biological parent has not established parental rights as required by KRS
21 625.065.

22 (2) A minor parent who is a party defendant may consent to an adoption but a guardian
23 ad litem for the parent shall be appointed *pursuant to Sections 1 to 3 and 8 of this*
24 *Act.*

25 (3) In the case of a child twelve (12) years of age or older, the consent of the child shall
26 be given in court. The court in its discretion may waive this requirement.

27 (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be

1 granted without the consent of the biological living parents of a child if it is pleaded
2 and proved as a part of the adoption proceedings that any of the provisions of KRS
3 625.090 exist with respect to the child.

4 (5) An adoption shall not be granted or a consent for adoption be held valid if the
5 consent for adoption is given prior to seventy-two (72) hours after the birth of the
6 child. A voluntary and informed consent may be taken at seventy-two (72) hours
7 after the birth of the child and shall become final and irrevocable twenty (20) days
8 after it is signed.

9 ➔Section 13. KRS 202A.121 is amended to read as follows:

10 Upon the appearance of the person detained pursuant to KRS 202A.041 or upon the filing
11 of a petition pursuant to KRS 202A.051, the court shall appoint an attorney to represent
12 the respondent pursuant to Sections 1 to 3 and 8 of this Act with such appointment and
13 representation to continue unless the respondent retains private counsel. The appointed
14 attorney shall be forthwith notified by the clerk of the allegations in the petition and the
15 date and purpose of the preliminary hearing. Notwithstanding KRS 202A.091, an attorney
16 appointed by the court or retained by the respondent shall be given access to the court
17 records relating to the petition.

18 ➔Section 14. KRS 202B.210 is amended to read as follows:

19 Upon the filing of a petition for involuntary admission pursuant to KRS 202B.045, the
20 court shall appoint an attorney to represent the respondent pursuant to Sections 1 to 3
21 and 8 of this Act with the appointment and representation to continue unless the
22 respondent retains private counsel. The appointed attorney shall be forthwith notified by
23 the clerk of the allegations in the petition and the date and purpose of the preliminary
24 hearing. When it is necessary to appoint counsel, the District Court shall endeavor to
25 appoint private counsel, if available, to represent respondents, from a list of attorneys
26 who have volunteered to represent such respondents. The list shall be maintained by the
27 District Court clerk. Private counsel appointed by the court shall be compensated in the

1 manner set forth in KRS 620.100. If no other method of appointing counsel for the
2 respondent is available, the respondent shall be represented by the public advocate
3 pursuant to KRS Chapter 31.

4 ➔Section 15. KRS 209.110 is amended to read as follows:

5 (1) A petition by the cabinet for emergency protective services shall be verified by an
6 authorized representative of the cabinet and shall set forth the name, age, and
7 address of the adult in need of protective services; the nature of the disability of the
8 adult, if determinable; the proposed protective services; the petitioner's reasonable
9 belief, together with the facts supportive thereof, as to the existence of the facts, and
10 the facts showing the petitioner's attempts to obtain the adult's consent to the
11 services and the outcomes of such attempts. The petition and all subsequent court
12 documents shall be entitled: "In the interest of----- , an adult in need of protective
13 services." The petition shall be filed in the court of the adult's residence, or if filed
14 pursuant to KRS 209.130, the court of the county in which the adult is physically
15 located.

16 (2) When a petition for emergency protective services is filed, the court or the clerk
17 shall immediately appoint a guardian ad litem pursuant to Sections 1 to 3 and 8 of
18 this Act to represent the interest of the adult. The duties of a guardian ad litem
19 representing an adult for whom a petition for emergency protective services has
20 been filed shall include personally interviewing the adult, counseling with the adult
21 with respect to this chapter, informing him of his rights and providing competent
22 representation at all proceedings, and such other duties as the court may order.

23 (3) Following the filing of a petition, a summons shall be issued and served with a copy
24 of the petition, and notice of the time, date and location of the hearing to be held on
25 the petition. Service shall be made upon the adult and his guardian or, if none, his
26 caretaker. Should the adult have no guardian or caretaker, service shall be made
27 upon the adult's guardian ad litem. Notice of the hearing shall be given to the adult's

1 spouse, or, if none, to his adult children or next of kin, unless the court is satisfied
2 that notification would be impractical. Service shall not be made upon any person
3 who is believed to have perpetrated the abuse, neglect, or exploitation. Service of
4 the petition shall be made at least three (3) calendar days prior to the hearing for
5 emergency protective services.

6 (4) The hearing on the petition for an emergency order for protective services shall be
7 heard under the following conditions:

8 (a) The hearing on the petition, in the interests of expedition, may be held in any
9 county within the judicial district or circuit served by the court. The court
10 shall give priority to the holdings of the hearings pursuant to petitions filed
11 under this chapter;

12 (b) The adult or his representative may present evidence and cross-examine
13 witnesses; and

14 (c) The adult or his representative may petition the court to have any order which
15 is entered pursuant to this chapter, set aside or modified for good cause.

16 (5) Where protective services are rendered on the basis of an order pursuant to this
17 section, the cabinet shall submit a report to the court describing the circumstances
18 including the name, place, date, and nature of the services. Such report shall be
19 made at least once or on a monthly basis if protective services are provided the adult
20 for a period of longer than one (1) month.

21 (6) The fee of the guardian ad litem shall be paid by the cabinet not to exceed
22 ~~five~~~~three~~ hundred dollars ~~(\$300)~~ (\$500). This fee is not to be paid to attorneys
23 employed by government funded legal services programs.

24 ➔Section 16. KRS 311.732 is amended to read as follows:

25 (1) For purposes of this section the following definitions shall apply:

26 (a) "Minor" means any person under the age of eighteen (18);

27 (b) "Emancipated minor" means any minor who is or has been married or has by

1 court order or otherwise been freed from the care, custody, and control of her
2 parents; and

3 (c) "Abortion" means the use of any instrument, medicine, drug, or any other
4 substance or device with intent to terminate the pregnancy of a woman known
5 to be pregnant with intent other than to increase the probability of a live birth,
6 to preserve the life or health of the child after live birth, or to remove a dead
7 fetus.

8 (2) No person shall perform an abortion upon a minor unless:

9 (a) The attending physician or his agent secured the informed written consent of
10 the minor and one (1) parent or legal guardian;

11 (b) The minor is emancipated and the attending physician or his agent has
12 received the informed written consent of the minor; or

13 (c) The minor elects to petition any Circuit or District Court of the
14 Commonwealth pursuant to subsection (3) of this section and obtain an order
15 pursuant to subsection (4) of this section granting consent to the abortion and
16 the attending physician or his agent has received the informed written consent
17 of the minor.

18 (3) Every minor shall have the right to petition any Circuit or District Court of the
19 Commonwealth for an order granting the right to self-consent to an abortion
20 pursuant to the following procedures:

21 (a) The minor or her next friend may prepare and file a petition setting forth the
22 request of the minor for an order of consent to an abortion;

23 (b) The court shall insure that the minor prepares or her next friend is given
24 assistance in preparing and filing the petition and shall insure that the minor's
25 identity is kept anonymous;

26 (c) The minor may participate in proceedings in the court on her own behalf or
27 through her next friend and the court shall appoint a guardian ad litem for her

1 ~~pursuant to Sections 1 to 3 and 8 of this Act~~. The court shall advise her that
2 ~~she has a right to court appointed counsel and shall provide her with such~~
3 ~~counsel upon her request~~];

4 (d) All proceedings under this section shall be anonymous and shall be given
5 preference over other matters to insure that the court may reach a decision
6 promptly, but in no case shall the court fail to rule within seventy-two (72)
7 hours of the time of application, provided that the seventy-two (72) hour
8 limitation may be extended at the request of the minor; and

9 (e) The court shall hold a hearing on the merits of the petition before reaching a
10 decision. The court shall hear evidence at the hearing relating to the emotional
11 development, maturity, intellect, and understanding of the minor; the nature,
12 possible consequences, and alternatives to the abortion; and any other
13 evidence that the court may find useful in determining whether the minor
14 should be granted majority rights for the purpose of consenting to the abortion
15 or whether the abortion is in the best interest of the minor.

16 (4) The court shall enter a written order, making specific factual findings and legal
17 conclusions supporting its decision as follows:

18 (a) Granting the petition for an abortion if the court finds that the minor is mature
19 and well informed enough to make the abortion decision on her own;

20 (b) Granting consent to the abortion if the court finds that the performance of the
21 abortion would be in the minor's best interest; or

22 (c) Deny the petition, if the court finds that the minor is immature and that
23 performance of the abortion would not be in the minor's best interest.

24 (5) Any minor shall have the right of anonymous and expedited appeal to the Court of
25 Appeals, and that court shall give precedence over other pending matters.

26 (6) No fees shall be required of any minor who declares she has no sufficient funds to
27 pursue the procedures provided by this section.

- 1 (7) The Supreme Court is respectfully requested to promulgate any rules and
2 regulations it feels are necessary to ensure that proceedings under this section are
3 handled in an expeditious and anonymous manner.
- 4 (8) The requirements of subsections (2), (3), and (4) of this section shall not apply
5 when, in the best medical judgment of the physician based on the facts of the case
6 before him, a medical emergency exists that so complicates the pregnancy as to
7 require an immediate abortion. A physician who does not comply with subsection
8 (2), (3), or (4) of this section due to the utilization of this exception shall certify in
9 writing the medical indications upon which his judgment was based.
- 10 (9) A report indicating the basis for any medical judgment that warrants failure to
11 obtain consent pursuant to this section shall be filed with the Cabinet for Health and
12 Family Services on a form supplied by the cabinet. This report shall be confidential.
- 13 (10) Failure to obtain consent pursuant to the requirements of this section is prima facie
14 evidence of failure to obtain informed consent and of interference with family
15 relations in appropriate civil actions. The law of this state shall not be construed to
16 preclude the award of exemplary damages in any appropriate civil action relevant to
17 violations of this section. Nothing in this section shall be construed to limit the
18 common-law rights of parents.

19 ➔Section 17. KRS 353.330 is amended to read as follows:

20 All of the persons in being who have any present or contingent interest in the lands or
21 estate or interest sought to be leased shall be made parties to the proceedings authorized
22 in KRS 353.300 to 353.380, with any infant or infants being represented either by next
23 friend or statutory guardian or guardian ad litem *pursuant to Sections 1 to 3 and 8 of this*
24 *Act*, or in the case of constructive service of summons by a warning order attorney
25 appointed as in other cases. Any person adjudged mentally disabled shall be represented
26 by his guardian or conservator or by guardian ad litem *pursuant to Sections 1 to 3 and 8*
27 *of this Act*, or, in the case of constructive service of summons as in civil actions

1 generally, by a warning order attorney appointed as in other cases. If the court specifically
2 finds that the welfare or interest of any person or persons not in being requires special
3 representation, the court may appoint a trustee ad litem to represent such unknown parties
4 not in being or each separate class thereof, and such trustee ad litem shall file such
5 pleadings or answer and take such steps as he deems proper, and such unknown persons
6 will be fully bound by the proceedings hereunder. Otherwise, and in the absence of such
7 finding by the court, it shall not be necessary to make parties any persons not in being,
8 either as "unknown defendants" or otherwise, but the persons in being who are parties
9 shall stand for and represent the full title and whole interest in said lands or estate or
10 interest therein, and all parties not in being who might have some contingent or future
11 interest therein, and all persons, whether in being or not in being, having any interest,
12 present, future or contingent, in the property sought to be leased, will be fully bound by
13 the proceedings hereunder. It shall be permissible, however, to make defendants any
14 unknown persons who might have any interest in the land sought to be leased, under the
15 style of "unknown
16 defendants."

17 ➔Section 18. KRS 387.125 is amended to read as follows:

- 18 (1) A guardian shall apply the income or principal of the ward's estate to the payment of
19 debts, taxes, claims, charges, and expenses of the guardianship and, in accordance
20 with KRS 387.065, for the support, care, and education of the ward or the ward's
21 dependents.
- 22 (2) A guardian shall take possession of all of the ward's real and personal property.
- 23 (3) A guardian may sell any of the ward's personal property without District Court
24 authorization or confirmation. To sell any of the ward's real property, a guardian
25 shall comply with the provisions of KRS Chapter 389A.
- 26 (4) A guardian shall invest any of the ward's money or property which is not required
27 for the ward's current support, care and education. The investments made of a

1 ward's funds shall be investments authorized by KRS 386.020.

2 (5) A guardian may expend the ward's funds to repair and maintain the ward's personal
3 and real property.

4 (6) A guardian may institute or defend actions, claims, or proceedings in any
5 jurisdiction for the protection of the ward's estate. Subject to the approval of the
6 court in which the action, claim, or proceeding has been filed, a guardian may settle
7 or compromise the action, claim, or proceeding on behalf of the ward. If the action,
8 claim, or proceeding has not been filed in any court, the District Court of the county
9 where a guardian qualified shall approve the settlement or compromise. Upon
10 approval of a settlement or compromise, a guardian may execute a release on behalf
11 of the ward. A guardian shall receive any proceeds from a settlement for
12 management in accordance with the provisions of this statute.

13 (7) A guardian may lease any real property of the ward until the ward reaches majority,
14 but no lease shall be made for a term longer than seven (7) years unless otherwise
15 approved by the District Court.

16 (8) A guardian shall obtain approval from the District Court of the county where the
17 guardian qualified for any of the following made on behalf of the ward:

18 (a) Any lease of mineral rights;

19 (b) Any lease of oil and gas rights;

20 (c) Any sale of timber owned by the ward; or

21 (d) Any consolidation agreement, as defined by KRS 353.220.

22 To aid it in making the decision on a proposed sale, lease, or consolidation
23 agreement, the court shall appoint a guardian ad litem for the ward pursuant to
24 Sections 1 to 3 and 8 of this Act. The guardian ad litem shall report to the court on
25 the suitability of the transaction.

26 (9) A guardian shall comply with the reporting requirements specified in KRS 387.175.

27 ➔Section 19. KRS 387.305 is amended to read as follows:

- 1 (1) No appointment of a guardian ad litem shall be made until the defendant is
2 summoned, or until a person is summoned for him, as is authorized by law; nor
3 until an affidavit of the plaintiff, or of his attorney, be filed in court, or with the
4 clerk, showing that the defendant has no guardian, curator, nor conservator, residing
5 in this state, known to the affiant.
- 6 (2) A guardian ad litem must be a regular, practicing attorney of the court and may be
7 appointed by the court pursuant to Sections 1 to 3 and 8 of this Act, whether a
8 guardian, curator, or conservator appear for the defendant or not. The guardian ad
9 litem may be appointed upon the motion of the plaintiff or of any friend of the
10 defendant; but neither the plaintiff nor his attorney shall be appointed, nor be
11 permitted to suggest the name of the proposed guardian ad litem; and the court may
12 change the guardian so appointed whenever the interest of the infant may appear to
13 require such change.
- 14 (3) It shall be the duty of the guardian ad litem to attend properly to the preparation of
15 the case; and in an ordinary action he may cause as many witnesses to be
16 subpoenaed as he may think proper, subject to the control of the court; and in an
17 equitable action he may take depositions, not, however, exceeding three (3), without
18 leave of the court.
- 19 (4) The court shall allow to the guardian ad litem a reasonable fee, not to exceed five
20 hundred dollars (\$500), for his services, to be paid by the plaintiff and taxed in the
21 costs. The affidavit of such guardian, or of another person, or other competent
22 evidence, is admissible to prove the services rendered, but not to prove their value.
23 The court must decide concerning such value, without reference to the opinions of
24 parties or other witnesses.
- 25 (5) Whether appointed pursuant to this statute or pursuant to a provision of the
26 Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to
27 advocate for the client's best interest in the proceeding through which the guardian

1 ad litem was appointed. Without an appointment, the guardian ad litem shall have
2 no obligation to initiate action or to defend the client in other proceedings.

3 ➔Section 20. KRS 387.880 is amended to read as follows:

4 The petition shall be docketed with the court and set for hearing unless the court shall
5 otherwise determine. Notice of the hearing shall be given to each interested party not less
6 than fourteen (14) days in advance, in accordance with KRS 386B.1-070, unless waived
7 in writing. The court may assign a guardian ad litem *pursuant to Sections 1 to 3 and 8 of*
8 *this Act* to advise the court with respect to the suitability of the special needs trust.

9 ➔Section 21. KRS 388.250 is amended to read as follows:

10 Notwithstanding the provisions of existing law for adjudication of mental disability and
11 appointment of a guardian or conservator upon the inquest of a jury, where a petition is
12 filed for the appointment of a guardian or conservator for a mentally disabled beneficiary
13 of the Veterans Affairs under the provisions of this chapter, who is found within this
14 state, whether or not a resident thereof, a certificate of the administrator of Veterans
15 Affairs or his duly authorized representative, accompanying such petition setting forth the
16 fact that such beneficiary has been rated incompetent by the Veterans Affairs on
17 examination in accordance with the laws and regulations governing such Veterans
18 Affairs, and that the appointment of a guardian or conservator is a condition precedent to
19 the payment of any moneys due each beneficiary by the Veterans Affairs, shall be prima
20 facie evidence of the necessity for such appointment. Provided, however, that some
21 member of the bar shall be appointed by the court to represent and protect the interests
22 and rights of such mentally disabled beneficiary *pursuant to Sections 1 to 3 and 8 of this*
23 *Act*~~[as provided under existing law]~~, and further that the right of any such mentally
24 disabled beneficiary or any person interested in such beneficiary to demand a trial by jury
25 shall not be denied.

26 ➔Section 22. KRS 389A.030 is amended to read as follows:

27 (1) When two (2) or more persons other than tenants by the entirety in residential

1 property actually occupied by them as a principal residence share title to real estate
2 in such manner that a conveyance by them jointly would pass a fee simple title, any
3 one (1) or more of them may bring an action for the sale or division thereof in the
4 Circuit Court of the county in which the land, or the greater part thereof, lies,
5 making parties defendant those owners who have not joined as plaintiffs. A
6 fiduciary possessing a power of sale may institute such an action against owners of
7 interests not represented by him. Defendant owners shall be brought before the
8 court in the manner provided by the civil rules whether or not a fiduciary possesses
9 a power of sale of the defendant's interest, but any fiduciary possessing such a
10 power shall also be made a defendant. The case shall be tried without a jury.

11 (2) A defendant who is under disability and for whom no fiduciary is acting shall be
12 represented in the action by a guardian ad litem pursuant to Sections 1 to 3 and 8
13 of this Act, but in the event of sale of such defendant's interest the court shall retain
14 control of the proceeds of such interest until a duly appointed and adequately
15 bonded fiduciary or custodian pursuant to a court order makes claim to the funds.

16 (3) In all such actions indivisibility of the real estate shall be presumed unless an issue
17 in respect thereto is raised by the pleading of any party, and if the court is satisfied
18 from the evidence that the property is divisible, without materially impairing the
19 value of any interest therein, division thereof pursuant to KRS 381.135 shall be
20 ordered.

21 (4) If a sale of all or any part of the real estate shall be ordered, the court shall refer the
22 matter to the master commissioner or appoint a commissioner to conduct a public
23 sale and convey the property upon terms of sale and disposition of the net proceeds
24 as may have been determined by the court.

25 (5) The death of any party pending the action and prior to distribution of the proceeds
26 of sale or setting apart a divisible share shall not affect the action but the court may
27 direct distribution or apportionment to the successors in interest of the decedent

1 upon application therefor.

2 (6) If the interest of any party be one for life, or other term, in any portion of the real
3 estate, the court shall determine the value of such interest and direct that such party
4 receive a portion of the net sale proceeds or portion of the property if divisible, in
5 fee in satisfaction of such interest, but if any party to the action objects to such
6 procedure, and if the court finds that such procedure would defeat the objects and
7 purpose of a person not a party to the action, such as a testator, grantor or settlor,
8 but that sale or division is nevertheless desirable, the court shall order that the
9 interest of the life or term tenant shall continue as to his portion of the real estate or
10 the net proceeds of the sale thereof, in the latter case by directing that the funds
11 derived from the sale of that portion of the real estate in which the life or term
12 interest existed be paid to a trustee, appointed by and accountable to the District
13 Court, for reinvestment and distribution of income and principal in a manner
14 consistent with the instrument under which the life or term estate was created.

15 ➔Section 23. KRS 389A.035 is amended to read as follows:

16 When two (2) or more persons share title to real estate but an interest therein may be
17 possessed by persons unborn or not immediately ascertainable, an action for sale or
18 division may be brought in the same manner as provided in KRS 389A.030 but the
19 interest of the unborn or unascertainable persons, unless a living member of the class to
20 which such persons belong who is sui juris is a party to the action, shall be represented by
21 a guardian ad litem *pursuant to Sections 1 to 3 and 8 of this Act* who is not acting in
22 such capacity for any other party to the action. In the event of sale or division under this
23 section, the court shall apply the provisions of subsection (6) of KRS 389A.030 to
24 preserve the interest of the unborn or unascertainable persons until they are born,
25 ascertained or the class to which they belong otherwise closes.

26 ➔Section 24. KRS 394.190 is amended to read as follows:

27 Any person interested in such probate may be summoned, or proceeded against by

1 warning order, and if an infant or mentally disabled person, a guardian ad litem shall be
2 appointed *pursuant to Sections 1 to 3 and 8 of this Act.*

3 ➔Section 25. KRS 404.060 is amended to read as follows:

- 4 (1) A married woman may sue, and be sued, as a single woman.
- 5 (2) She may defend an action against her and her husband for herself, and for him also
6 if he fail to defend.
- 7 (3) If a husband desert his wife, she may bring or defend for him any action which he
8 might bring or defend, and shall have the powers and rights with reference thereto
9 which he would have had but for such desertion.
- 10 (4) If a female party to an action marry, her husband may be made a party by a motion,
11 causing the fact to be stated upon the record; and the action shall not be delayed by
12 reason of the marriage.
- 13 (5) But if a wife be adjudged mentally disabled, or imprisoned, the actions mentioned
14 in subsections (1), (2) and (3), of this section must be prosecuted or defended by her
15 guardian, conservator, or curator, if she have one, and if she have none, must be
16 prosecuted by her next friend, or defended by her guardian ad litem *pursuant to*
17 *Sections 1 to 3 and 8 of this Act.*

18 ➔Section 26. KRS 620.100 is amended to read as follows:

- 19 (1) If the court determines, as a result of a temporary removal hearing, that further
20 proceedings are required, the court shall advise the child and his parent or other
21 person exercising custodial control or supervision of their right to appointment of
22 separate counsel:
- 23 (a) The court shall appoint counsel for the child to be paid for by the Finance and
24 Administration Cabinet *pursuant to Sections 1 to 3 and 8 of this Act.*
25 Counsel shall document participation in training on the role of counsel that
26 includes training in early childhood, child, and adolescent development. The
27 clerk of the court shall arrange for service on all parties, including the local

1 representative of the Cabinet for Health and Family Services, of the order
2 appointing counsel. The fee to be fixed by the court shall not exceed five
3 hundred dollars (\$500)~~]; however, if the action has final disposition in the~~
4 ~~District Court, the fee shall not exceed two hundred fifty dollars (\$250)];~~

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

14 (c) The court shall appoint separate counsel for a person claiming to be a de facto
15 custodian, as defined in KRS 403.270, if the person is unable to afford
16 counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for
17 service on all parties, including the local representative of the Cabinet for
18 Health and Family Services, of the order appointing counsel. The person's
19 counsel shall be provided or paid for by the Finance and Administration
20 Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars
21 (\$500)~~]; however, if the action has final disposition in the District Court, the~~
22 ~~fee shall not exceed two hundred fifty dollars (\$250)];~~

23 (d) The court may, in the interest of justice, appoint separate counsel for a
24 nonparent who exercises custodial control or supervision of the child, if the
25 person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of
26 the court shall arrange for service on all parties, including the local
27 representative of the Cabinet for Health and Family Services, of the order

1 appointing counsel. Counsel for the person shall be provided or paid for by the
2 Finance and Administration Cabinet. The fee to be fixed by the court shall not
3 exceed five hundred dollars (\$500)~~}; however, if the action has final~~
4 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~
5 ~~dollars (\$250)~~; and

6 (e) The court may, in the interest of justice, appoint a court-appointed special
7 advocate volunteer to represent the best interests of the child pursuant to KRS
8 620.500 to 620.550. The clerk of the court shall arrange for service on all
9 parties, including the local representative of the cabinet, of the order
10 appointing the court-appointed special advocate volunteer.

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

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

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

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

27 ➔Section 27. KRS 625.041 is amended to read as follows:

- 1 (1) The parties to an action for voluntary termination of parental rights shall be the
2 parent seeking termination, whose presence is not required if represented by counsel
3 for the parent when an appearance-waiver and consent-to-adopt form is filed with
4 the court, but the court shall appoint a guardian ad litem to represent the best
5 interest of the child *pursuant to Sections 1 to 3 and 8 of this Act.*
- 6 (2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five
7 hundred dollars (\$500), to be paid by the petitioner, except if the Cabinet for Health
8 and Family Services receives custody of the child, the guardian ad litem shall be
9 paid by the Finance and Administration Cabinet.
- 10 (3) The parent may sign an appearance-waiver and consent-to-adopt form when the
11 parent chooses not to attend a voluntary termination of parental rights proceedings.
12 This form, prescribed by the Administrative Office of the Courts, shall:
- 13 (a) Contain a statement of acknowledgment and agreement, regarding the
14 appearance at the proceeding, signed by the parent, counsel for the parent, and
15 the cabinet. If the parent is a minor, the form shall also be signed by the
16 guardian of the minor parent;
- 17 (b) Contain the parent's notarized signature;
- 18 (c) Contain any address to which the parent requests the final judgment be served.
- 19 (4) If a joint petition is filed, counsel shall be designated as attorney for both parties.

20 ➔Section 28. KRS 625.080 is amended to read as follows:

21 In any involuntary action for termination of parental rights:

- 22 (1) The Circuit Court shall conduct a private hearing. An official stenographic or
23 mechanical record shall be made of the proceedings and retained for a period of five
24 (5) years. The court shall make findings of fact and conclusions of law, which may
25 be made on the record, to support its judgment;
- 26 (2) Any child to whom an involuntary action directly relates shall be made a party to
27 the action and a guardian ad litem shall be appointed to represent the best interests

1 of the child pursuant to Sections 1 to 3 and 8 of this Act. The person appointed as
2 a guardian ad litem shall be paid a fee not to exceed five hundred dollars (\$500), to
3 be paid by the Finance and Administration Cabinet when the cabinet is the proposed
4 custodian. When the cabinet is not the proposed custodian, the court may order the
5 cost to be paid by the proposed adoptive parent, parents, agency, or the petitioner.
6 Upon motion of any party, the child may be permitted to be present during the
7 proceedings and to testify if the court finds such to be in the best interests of the
8 child. In its discretion, the Circuit Court may interview the child in private, but a
9 record of the interview shall be made, which, in the discretion of the court, may be
10 sealed to be used only by an appellate court;

11 (3) The parents have the right to legal representation in involuntary termination actions.
12 The Circuit Court shall determine if the parent is indigent and, therefore, entitled to
13 counsel pursuant to KRS Chapter 31. If the Circuit Court so finds, the Circuit Court
14 shall inform the parent; and, upon request, if it appears reasonably necessary in the
15 interest of justice, the Circuit Court shall appoint an attorney to represent the parent
16 pursuant to KRS Chapter 31 to be provided or paid for by the Finance and
17 Administration Cabinet a fee to be set by the court and not to exceed five hundred
18 dollars (\$500);

19 (4) If the parent is currently authorized to visit with the child, the court may continue to
20 permit the parent to visit the child pending the final hearing unless it finds that
21 visitation would not be in the best interest of the child.

22 (5) The hearing under this chapter shall be held within sixty (60) days of the motion by
23 a party or the guardian ad litem for a trial date.

24 ➔Section 29. Sections 8 to 28 of this Act take effect July 1, 2020.

25 ➔Section 30. Any guardian ad litem or court-appointed counsel appointed prior to
26 July 1, 2020, shall continue to represent his or her client until released from that duty by
27 the court. After July 1, 2020, guardians ad litem and court-appointed counsel shall be

1 appointed pursuant to Sections 1 to 3 and 8 to 28 of this Act.