

1 AN ACT relating to adoption.

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

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

5 *(1) The cabinet shall provide placement services information to the biological or*  
6 *legal parents or guardian of a child when the cabinet first commences any action*  
7 *related to the removal of the child from the care of the legal parent or guardian*  
8 *due to an allegation of dependency, neglect, or abuse pursuant to KRS Chapter*  
9 *620. The placement services information shall include but not be limited to*  
10 *adoption services that are provided through a licensed child-placing agency or a*  
11 *public agency for children who cannot be cared for by their biological or legal*  
12 *parents or guardians and who need and can benefit from new and permanent*  
13 *family ties established through legal adoption.*

14 *(2) If a biological or legal parent executes a voluntary and informed consent for*  
15 *adoption of a minor child with a licensed child-placing agency, the cabinet, or*  
16 *qualified prospective adoptive parents, and the minor child is under the*  
17 *supervision of the cabinet, or otherwise subject to the jurisdiction of the court as*  
18 *a result of the proceedings related to an allegation of dependency, neglect, or*  
19 *abuse pursuant to KRS Chapter 620, or a petition for termination of parental*  
20 *rights pursuant to KRS Chapter 625, but parental rights have not yet been*  
21 *terminated, the adoption consent is valid, binding, and enforceable by the court.*

22 *(3) Upon execution of the voluntary and informed consent of the biological or legal*  
23 *parent, the licensed child-placing agency, the cabinet, or qualified prospective*  
24 *adoptive parents shall be permitted to intervene in the proceedings related to an*  
25 *allegation of dependency, neglect, or abuse pursuant to KRS Chapter 620 as a*  
26 *party in interest and must provide the court a copy of the preliminary home study*  
27 *of the prospective adoptive parents and any other evidence of the suitability of the*

1 placement. The preliminary home study shall be maintained with strictest  
2 confidentiality within the court file. A preliminary home study shall be provided  
3 to the court in all cases in which a licensed child-placing agency, the cabinet, or  
4 qualified prospective adoptive parents has intervened pursuant to this section.  
5 Unless the court has concerns regarding the qualifications of the home study  
6 provider, or concerns that the home study may not be adequate to determine the  
7 best interests of the child, the home study provided by the licensed child-placing  
8 agency, the cabinet, or qualified prospective adoptive parents shall be deemed to  
9 be sufficient and no additional home study needs to be performed.

10 (4) If a licensed child-placing agency, the cabinet, or a qualified prospective adoptive  
11 parents entity files a motion to intervene in the proceedings related to an  
12 allegation of dependency, neglect, or abuse pursuant to KRS Chapter 620 in  
13 accordance with this section, the court shall promptly grant a hearing to  
14 determine whether the licensed child-placing agency, the cabinet, or the qualified  
15 prospective adoptive parents have filed the required documents to be permitted to  
16 intervene and whether a change of placement of the child is in the best interests  
17 of the child. Absent good cause or mutual agreement of the parties, the final  
18 hearing on the motion to intervene and the change of placement of the child shall  
19 be held within thirty (30) days after the filing of the motion, and a written final  
20 order shall be filed within fifteen (15) days after the hearing.

21 (5) If after consideration of all relevant factors, including those set forth in  
22 subsection (6) of this section, the court determines that the prospective adoptive  
23 parents are properly qualified to adopt the minor child and that the adoption is in  
24 the best interests of the minor child, the court shall promptly order the transfer of  
25 custody of the minor child to the prospective adoptive parents, under the  
26 supervision of a licensed child-placing agency or the cabinet. The court may  
27 establish reasonable requirements for the transfer of custody in the transfer

1 order, including a reasonable period of time to transition final custody to the  
2 prospective adoptive parents. The licensed child-placing agency or the cabinet  
3 shall thereafter provide monthly supervision reports to the court until finalization  
4 of the adoption. If the child has been determined by the court to be dependent,  
5 neglected, or abused, the cabinet shall provide information to the prospective  
6 adoptive parents at the time they receive placement of the dependent child  
7 regarding approved parent training classes available within the community. The  
8 cabinet shall file with the court an acknowledgment of the prospective adoptive  
9 parents' receipt of the information regarding approved parent training classes  
10 available within the community.

11 (6) In determining whether the best interests of the child are served by transferring  
12 the custody of the minor child to the prospective adoptive parents selected by the  
13 legal parent, licensed child-placing agency, or the cabinet, the court shall  
14 consider and weigh all relevant factors, including but not limited to:

15 (a) The permanency offered;

16 (b) The established bonded relationship between the child and the current  
17 caregiver in any potential adoptive home in which the child has been  
18 residing;

19 (c) The stability of the potential adoptive home in which the child has been  
20 residing as well as the desirability of maintaining continuity of placement;

21 (d) The importance of maintaining sibling relationships, if possible;

22 (e) The reasonable preferences and wishes of the child, if the court deems the  
23 child to be of sufficient maturity, understanding, and experience to express  
24 a preference;

25 (f) Whether a petition for termination of parental rights has been filed  
26 pursuant to KRS Chapter 625;

27 (g) What is best for the child; and

1        (h) The legal right of the parent to determine an appropriate placement for the  
 2                child.

3        (7) The licensed child-placing agency or the cabinet shall be responsible for keeping  
 4                the court informed of the status of the adoption proceedings at least every ninety  
 5                (90) days from the date of the order changing placement of the minor child until  
 6                the date of finalization of the adoption.

7        (8) At any hearing held related to the removal of the child from the care of the legal  
 8                parent or guardian due to an allegation of dependency, neglect, or abuse  
 9                pursuant to KRS Chapter 620, the court shall provide written notice to the  
 10               biological or legal parent who is a party to the case of his or her right to  
 11               participate in a private adoption plan including written notice of the factors  
 12               provided in subsection (6) of this section.

13        ➔Section 2. KRS 199.011 is amended to read as follows:

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

15        (1) "Adoption worker" means an employee of the cabinet so designated by the secretary  
 16               for health and family services, a social worker employed by a county or city who  
 17               has been approved by the cabinet to handle, under its supervision, adoption  
 18               placement services to children, or a social worker employed by or under contract to  
 19               a child-placing adoption agency;

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

22        (3) "Cabinet" means the Cabinet for Health and Family Services;

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

24        (5) "Child-caring facility" means any institution or group home, including institutions  
 25               and group homes that are publicly operated, providing residential care on a twenty-  
 26               four (24) hour basis to children, not related by blood, adoption, or marriage to the  
 27               person maintaining the facility, other than an institution or group home certified by

- 1 an appropriate agency as operated primarily for educational or medical purposes, or  
2 a residential program operated or contracted by the Department of Juvenile Justice  
3 that maintains accreditation, or obtains accreditation within two (2) years of  
4 opening from a nationally recognized accrediting organization;
- 5 (6) "Child-placing agency" means any agency licensed by the cabinet, which supervises  
6 the placement of children in foster family homes or child-caring facilities, or which  
7 places children for adoption;
- 8 (7) "Department" means the Department for Community Based Services;
- 9 (8) "Family rehabilitation home" means a child-caring facility for appropriate families  
10 and comprising not more than twelve (12) children and two (2) staff persons;
- 11 (9) "Fictive kin" means an individual who is not related by birth, adoption, or marriage  
12 to a child, but who has an emotionally significant relationship with the child;
- 13 (10) "Foster family home" means a private home in which children are placed for foster  
14 family care under supervision of the cabinet or of a licensed child-placing agency;
- 15 (11) "Group home" means a homelike facility, excluding Department of Juvenile Justice-  
16 operated or -contracted facilities, for not more than eight (8) foster children, not  
17 adjacent to or part of an institutional campus, operated by a sponsoring agency for  
18 children who may participate in community activities and use community resources;
- 19 (12) "Institution" means a child-caring facility providing care or maintenance for nine (9)  
20 or more children;
- 21 (13) "Placement services" means those social services customarily provided by a  
22 licensed child-placing or a public agency, which are necessary for the arrangement  
23 and placement of children in foster family homes, child-placing facilities, or  
24 adoptive homes. Placement services are provided through a licensed child-placing  
25 or a public agency for children who cannot be cared for by their biological parents  
26 and who need and can benefit from new and permanent family ties established  
27 through legal adoption. Licensed child-placing agencies and public agencies have a

1 responsibility to act in the best interests of children, biological parents, and adoptive  
2 parents by providing social services to all the parties involved in an adoption;

3 (14) "Rap back system" means a system that enables an authorized entity to receive  
4 ongoing status notifications of any criminal history from the Department of  
5 Kentucky State Police or the Federal Bureau of Investigation reported on an  
6 individual whose fingerprints are registered in the system, upon approval and  
7 implementation of the system;

8 (15) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.  
9 sec. 675(10);

10 (16) "Secretary" means the secretary for health and family services; and

11 (17) "Voluntary and informed consent" means that at the time of the execution of the  
12 consent, the consenting person was fully informed of the legal effect of the consent,  
13 that the consenting person was not given or promised anything of value except those  
14 expenses allowable under KRS 199.590(6), that the consenting person was not  
15 coerced in any way to execute the consent, and that the consent was voluntarily and  
16 knowingly given. If at the time of the execution of the consent the consenting  
17 person was represented by independent legal counsel, there shall be a presumption  
18 that the consent was voluntary and informed. The consent shall be in writing, signed  
19 and sworn to by the consenting person, and include the following:

20 (a) Date, time, and place of the execution of the consent;

21 (b) Name of the child, if any, to be adopted, and the date and place of the child's  
22 birth;

23 (c) Consenting person's relationship to the child;

24 (d) Identity of the proposed adoptive parents or a statement that the consenting  
25 person does not desire to know the identification of the proposed adoptive  
26 parents;

27 (e) 1. A statement that the consenting person understands that the consent will

1           be final and irrevocable under this paragraph unless withdrawn under  
2           this paragraph.

3           2. If placement approval by the secretary is required, the voluntary and  
4           informed consent shall become final and irrevocable seventy-two (72)  
5           hours after it is signed~~[twenty (20) days after the later of the placement~~  
6           ~~approval or the execution of the voluntary and informed consent]~~. This  
7           consent may be withdrawn only by written notification sent to the  
8           proposed adoptive parent or the attorney for the proposed adoptive  
9           parent on or before the twentieth day by certified or registered mail and  
10          also by first-class mail.

11          3. If placement approval by the secretary is not required, the voluntary and  
12          informed consent shall become final and irrevocable twenty (20) days  
13          after the execution of the voluntary and informed consent. This consent  
14          may be withdrawn only by written notification sent to the proposed  
15          adoptive parent or the attorney for the proposed adoptive parent on or  
16          before the twentieth day by certified or registered mail and also by first-  
17          class mail;

18          (f) Disposition of the child if the adoption is not adjudged;

19          (g) A statement that the consenting person has received a completed and signed  
20          copy of the consent at the time of the execution of the consent;

21          (h) Name and address of the person who prepared the consent, name and address  
22          of the person who reviewed and explained the consent to the consenting  
23          person, and a verified statement from the consenting person that the consent  
24          has been reviewed with and fully explained to the consenting person; and

25          (i) Total amount of the consenting person's legal fees, if any, for any purpose  
26          related to the execution of the consent and the source of payment of the legal  
27          fees.

1           ➔Section 3. KRS 199.480 is amended to read as follows:

- 2       (1) The following persons shall be made parties defendant in an action for leave to  
3       adopt a child:
- 4           (a) The child to be adopted;
- 5           (b) The biological living parents of a child under eighteen (18), if the child is born  
6           in lawful wedlock. If the child is born out of wedlock, its mother; and its  
7           father, if one (1) of the following requirements is met:
- 8               1. He is known and voluntarily identified by the mother by affidavit;
- 9               2. He has registered with the cabinet pursuant to KRS 199.503 as a  
10              putative father prior to the birth of the child, or if he did not have notice  
11              prior to the birth of the child, within twenty-one (21)~~thirty (30)~~ days  
12              after the birth of the child;
- 13              3. He has caused his name to be affixed to the birth certificate of the child;
- 14              4. He has commenced a judicial proceeding claiming parental right;
- 15              5. He has contributed financially to the support of the child, either by  
16              paying the medical or hospital bills associated with the birth of the child  
17              or financially contributed to the child's support; or
- 18              6. He has married the mother of the child or has lived openly or is living  
19              openly with the child or the person designated on the birth certificate as  
20              the biological mother of the child.
- 21           A putative father shall not be made a party defendant if none of the  
22           requirements set forth above have been met, and a biological parent shall not  
23           be made a party defendant if the parental rights of that parent have been  
24           terminated under KRS Chapter 625, or under a comparable statute of another  
25           jurisdiction;
- 26           (c) The child's guardian, if it has one.
- 27           (d) If the care, custody, and control of the child has been transferred to the



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

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

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

16 ➔Section 4. KRS 199.500 is amended to read as follows:

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

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

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

- 1 (c) The living parents are divorced and the parental rights of one (1) parent have  
2 been terminated under KRS Chapter 625 and consent has been given by the  
3 parent having custody and control of the child; or
- 4 (d) The biological parent has not established parental rights as required by KRS  
5 625.065.
- 6 (2) A minor parent who is a party defendant may consent to an adoption but a guardian  
7 ad litem for the parent shall be appointed.
- 8 (3) In the case of a child twelve (12) years of age or older, the consent of the child shall  
9 be given in court. The court in its discretion may waive this requirement.
- 10 (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be  
11 granted without the consent of the biological living parents of a child if it is pleaded  
12 and proved as a part of the adoption proceedings that any of the provisions of KRS  
13 625.090 exist with respect to the child.
- 14 (5) An adoption shall not be granted or a consent for adoption be held valid if the  
15 consent for adoption is given prior to seventy-two (72) hours after the birth of the  
16 child. A voluntary and informed consent may be taken at seventy-two (72) hours  
17 after the birth of the child and shall become final and irrevocable seventy-two  
18 (72)~~twenty (20)~~ days after it is signed.
- 19 ➔Section 5. KRS 625.065 is amended to read as follows:
- 20 (1) The putative father of a child shall be made a party and brought before the circuit  
21 court in the same manner as any other party to an involuntary termination action if  
22 one (1) of the following conditions exists:
- 23 (a) He is known and voluntarily identified by the mother by affidavit;
- 24 (b) He has registered with the cabinet pursuant to KRS 199.503 as a putative  
25 father prior to the birth of the child, or if he did not have notice prior to the  
26 birth of the child, within twenty-one (21)~~thirty (30)~~ days after the birth of the  
27 child;

- 1           (c) He has caused his name to be affixed to the birth certificate of the child;
- 2           (d) He has commenced a judicial proceeding claiming parental right;
- 3           (e) He has contributed financially to the support of the child, either by paying the
- 4                 medical or hospital bills associated with the birth of the child or financially
- 5                 contributing to the child's support; or
- 6           (f) He has married the mother of the child or has lived openly or is living openly
- 7                 with the child or the person designated on the birth certificate as the biological
- 8                 mother of the child.
- 9       (2) Any person to whom none of the above conditions apply shall be deemed to have no
- 10           parental rights to the child in question.