

1 AN ACT relating to guardians ad litem and other court-appointed counsel and  
2 making an appropriation therefor.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO  
5 READ AS FOLLOWS:

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

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

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

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

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

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

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

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

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

1 (b) The Attorney General or his or her designee;

2 (c) One (1) member appointed by the President of the Senate; and

3 (d) One (1) member appointed by the Speaker of the House of Representatives.

4 Appointed members shall be either child advocates or persons with substantial  
5 experience in the representation of minors or disabled adults.

6 (4) At the first meeting of the commission, a drawing by lot shall be conducted to  
7 determine the length of each original member's term. Initially there shall be one  
8 (1) two (2) year term, two (2) three (3) year terms, and two (2) four (4) year terms.  
9 Vacancies in the membership of the commission shall be filled in the same  
10 manner as original appointments. Appointments to fill vacancies occurring  
11 before the expiration of a term shall be for the remainder of the unexpired term.

12 (5) The commission shall first meet at the call of the Governor and thereafter as the  
13 commission shall determine on a regular basis, but at least quarterly, and shall  
14 be presided over by a chairperson elected by its members for a one (1) year term.  
15 A majority of commission members shall constitute a quorum, and decisions  
16 shall require the majority vote of those present; except that a recommendation to  
17 the Governor pertaining to the appointment, renewal of the appointment, or  
18 removal of the child and family advocate shall require a majority vote of the  
19 commission. Each member of the commission shall have one (1) vote, and voting  
20 by proxy shall be prohibited.

21 (6) The child and family advocate shall, upon appointment or renewal, be an ex  
22 officio member of the commission without the power to vote, shall serve as  
23 secretary of the commission, and shall be entitled to attend and participate in all  
24 meetings of the commission except discussions relating to renewal of his or her  
25 term or his or her removal.

26 (7) Commission members shall be reimbursed for reasonable and necessary expenses  
27 incurred while engaged in carrying out the duties of the commission and shall

1 receive one hundred dollars (\$100) per day for each meeting attended unless  
2 prohibited by law from receiving such compensation.

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

6 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO  
7 READ AS FOLLOWS:

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

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

17 1. Served as a guardian ad litem in at least twenty (20) dependency,  
18 neglect, or abuse proceedings;

19 2. Familiarity with the role, purpose, and function of guardians ad litem  
20 and court-appointed counsel in both juvenile and district courts; and

21 3. The ability to develop training curricula.

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

25 (3) The assistant child and family advocates shall be attorneys and shall be appointed  
26 by the child and family advocate. However, notwithstanding any statute to the  
27 contrary, the assistant child and family advocates shall not be covered by the

1 merit system and shall not be subject to the provisions of KRS 12.210.

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

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

8 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO  
 9 READ AS FOLLOWS:

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

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

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

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

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

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

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

26 (5) Establishing the number and location of offices throughout the Commonwealth  
 27 that shall provide guardians ad litem and court-appointed counsel for the

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

1 Advocacy contracts to protect them from liability for malpractice arising in the  
 2 course or scope of the contract;

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

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

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

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

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

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

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

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

23 (1) "System" means the Kentucky Employees Retirement System created by KRS  
 24 61.510 to 61.705;

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

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

1 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
2 General Assembly and any other body, entity, or instrumentality designated by  
3 executive order by the Governor, shall be deemed to be a department,  
4 notwithstanding whether said body, entity, or instrumentality is an integral part of  
5 state government;

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

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

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

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

19 (8) "Member" means any employee who is included in the membership of the system or  
20 any former employee whose membership has not been terminated under KRS  
21 61.535;

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

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

1 otherwise provided, and each member, officer, and employee of the General  
2 Assembly shall be credited with a month of current service for each month he  
3 serves in the position;

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

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

24 (13) "Creditable compensation":

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



1 result of services performed for the employer or for time during which the  
2 member is on paid leave, which are includable on the member's federal form  
3 W-2 wage and tax statement under the heading "wages, tips, other  
4 compensation," including employee contributions picked up after August 1,  
5 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it  
6 shall mean all amounts which are includable on the member's federal form W-  
7 2 wage and tax statement under the heading "wages, tips, other  
8 compensation," including employee contributions picked up after August 1,  
9 1982, pursuant to KRS 6.505(4) or 61.560(4);

10 (b) Includes:

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

1 which shall be credited to the period during which the wages were  
2 earned or should have been paid by the employer;

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

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

10 (c) Excludes:

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

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

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

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

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

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

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

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

25 (c) For a member who begins participating before September 1, 2008, who is  
26 employed in a hazardous position, as provided in KRS 61.592, and who  
27 retired prior to January 1, 2019, the creditable compensation of the member

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

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

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

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

- 1 (20) "Officers and employees of the General Assembly" means the occupants of those  
2 positions enumerated in KRS 6.150. The term shall also apply to assistants who  
3 were employed by the General Assembly for at least one (1) regular legislative  
4 session prior to July 13, 2004, who elect to participate in the retirement system, and  
5 who serve for at least six (6) regular legislative sessions. Assistants hired after July  
6 13, 2004, shall be designated as interim employees;
- 7 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean  
8 all positions that average one hundred (100) or more hours per month determined by  
9 using the number of months actually worked within a calendar or fiscal year,  
10 including all positions except:
- 11 (a) Seasonal positions, which although temporary in duration, are positions which  
12 coincide in duration with a particular season or seasons of the year and which  
13 may recur regularly from year to year, the period of time shall not exceed nine  
14 (9) months;
  - 15 (b) Emergency positions which are positions which do not exceed thirty (30)  
16 working days and are nonrenewable;
  - 17 (c) Temporary positions which are positions of employment with a participating  
18 department for a period of time not to exceed nine (9) months and are  
19 nonrenewable;
  - 20 (d) Part-time positions which are positions which may be permanent in duration,  
21 but which require less than a calendar or fiscal year average of one hundred  
22 (100) hours of work per month, determined by using the number of months  
23 actually worked within a calendar or fiscal year, in the performance of duty;  
24 and
  - 25 (e) Interim positions which are positions established for a one-time or recurring  
26 need not to exceed nine (9) months;
- 27 (22) "Delayed contribution payment" means an amount paid by an employee for

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

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

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

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

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

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

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



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

1 the combined sum of the member's accumulated contributions and the  
2 member's accumulated employer credit; or

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

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

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

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

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

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

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

27 (46) "Monthly average pay" means the higher of the member's monthly final rate of pay

1 or the average monthly creditable compensation earned by the deceased member  
2 during his or her last twelve (12) months of employment.

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

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

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

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

1 that notification would be impractical. Service shall not be made upon any person  
2 who is believed to have perpetrated the abuse, neglect, or exploitation. Service of  
3 the petition shall be made at least three (3) calendar days prior to the hearing for  
4 emergency protective services.

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

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

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

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

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

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

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

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

1 in this state, known to the affiant.

2 (2) A guardian ad litem must be a regular, practicing attorney of the court and may be  
3 appointed by the court, whether a guardian, curator, or conservator appear for the  
4 defendant or not. The guardian ad litem may be appointed upon the motion of the  
5 plaintiff or of any friend of the defendant; but neither the plaintiff nor his attorney  
6 shall be appointed, nor be permitted to suggest the name of the proposed guardian  
7 ad litem; and the court may change the guardian so appointed whenever the interest  
8 of the infant may appear to require such change.

9 (3) It shall be the duty of the guardian ad litem to attend properly to the preparation of  
10 the case; and in an ordinary action he may cause as many witnesses to be  
11 subpoenaed as he may think proper, subject to the control of the court; and in an  
12 equitable action he may take depositions, not, however, exceeding three (3), without  
13 leave of the court.

14 (4) The court shall allow to the guardian ad litem a reasonable fee, not to exceed five  
15 hundred dollars (\$500), for his services, to be paid by the plaintiff and taxed in the  
16 costs. The affidavit of such guardian, or of another person, or other competent  
17 evidence, is admissible to prove the services rendered, but not to prove their value.  
18 The court must decide concerning such value, without reference to the opinions of  
19 parties or other witnesses.

20 (5) Whether appointed pursuant to this statute or pursuant to a provision of the  
21 Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to  
22 advocate for the client's best interest in the proceeding through which the guardian  
23 ad litem was appointed. Without an appointment, the guardian ad litem shall have  
24 no obligation to initiate action or to defend the client in other proceedings.

25 ➔Section 7. KRS 620.100 is amended to read as follows:

26 (1) If the court determines, as a result of a temporary removal hearing, that further  
27 proceedings are required, the court shall advise the child and his parent or other

1 person exercising custodial control or supervision of their right to appointment of  
2 separate counsel:

3 (a) The court shall appoint counsel for the child to be paid for by the **Justice and**  
4 **Public Safety**~~[Finance and Administration]~~ Cabinet. Counsel shall document  
5 participation in training on the role of counsel that includes training in early  
6 childhood, child, and adolescent development. The clerk of the court shall  
7 arrange for service on all parties, including the local representative of the  
8 Cabinet for Health and Family Services, of the order appointing counsel. The  
9 fee to be fixed by the court shall not exceed five hundred dollars (\$500)~~;~~  
10 ~~however, if the action has final disposition in the District Court, the fee shall~~  
11 ~~not exceed two hundred fifty dollars (\$250)];~~

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

21 (c) The court shall appoint separate counsel for a person claiming to be a de facto  
22 custodian, as defined in KRS 403.270, if the person is unable to afford  
23 counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for  
24 service on all parties, including the local representative of the Cabinet for  
25 Health and Family Services, of the order appointing counsel. The person's  
26 counsel shall be provided or paid for by the **Justice and Public**  
27 **Safety**~~[Finance and Administration]~~ Cabinet. The fee to be fixed by the court

1 shall not exceed five hundred dollars (\$500)~~}; however, if the action has final~~  
2 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~  
3 ~~dollars (\$250)}~~;

4 (d) The court may, in the interest of justice, appoint separate counsel for a  
5 nonparent who exercises custodial control or supervision of the child, if the  
6 person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of  
7 the court shall arrange for service on all parties, including the local  
8 representative of the Cabinet for Health and Family Services, of the order  
9 appointing counsel. Counsel for the person shall be provided or paid for by the  
10 Justice and Public Safety~~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)}~~; and

14 (e) The court may, in the interest of justice, appoint a court-appointed special  
15 advocate volunteer to represent the best interests of the child pursuant to KRS  
16 620.500 to 620.550. The clerk of the court shall arrange for service on all  
17 parties, including the local representative of the cabinet, of the order  
18 appointing the court-appointed special advocate volunteer.

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

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

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

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

8 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO  
9 READ AS FOLLOWS:

10 (1) (a) A court may appoint a:

11 1. Guardian ad litem to represent the best interest of a:

12 a. Minor; or

13 b. Disabled adult;

14 in any case before the court. The court shall consider the best interest  
15 of the minor or disabled adult in determining whether to appoint a  
16 guardian ad litem; and

17 2. Court-appointed counsel for:

18 a. A minor;

19 b. An indigent parent entitled to counsel pursuant to KRS Chapter  
20 31 in accordance with KRS 199.502, 625.0405, or 625.080;

21 c. A parent, de facto custodian, or nonparent who exercises  
22 custodial control or supervision and is unable to afford counsel  
23 pursuant to KRS Chapter 31 in accordance with KRS 620.100;

24 or

25 d. A disabled adult.

26 (b) In all cases where a guardian ad litem or court-appointed counsel is  
27 appointed, the court shall make a finding that establishes the necessity of



1 the appointment.

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

5 (a) The minor is removed from the minor's home by the Cabinet for Health and  
6 Family Services; or

7 (b) The petition is filed.

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

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

11 (b) Prior to representing any client before the court, be trained in:

12 1. Applicable statutory, regulatory, and case law; and

13 2. Nationally recognized standards for a guardian ad litem and court-  
14 appointed counsel;

15 (c) Conducts or supervises an ongoing, independent investigation in order to  
16 obtain, first-hand, a clear understanding of the situation and needs of the  
17 client;

18 (d) Personally meets with the client, unless:

19 1. The client is outside of the Commonwealth; or

20 2. Meeting with the client would be detrimental to the client;

21 (e) Personally interviews the client, unless:

22 1. The client is not old enough to communicate;

23 2. The client lacks the capacity to participate in a meaningful interview;

24 or

25 3. The interview would be detrimental to the client;

26 (f) Personally attends all review hearings pertaining to the client's case;

27 (g) Participates in all appeals, unless excused by order of the court;

1 (h) To the extent possible, and unless it would be detrimental to the client,  
2 personally or through a trained volunteer, paralegal, or other trained staff,  
3 keeps the client advised of:

4 1. The status of the client's case;

5 2. All court and administrative proceedings;

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

7 4. Court action; and

8 5. The psychiatric, medical, or other treatment or diagnostic services that  
9 are to be provided to the client, if any;

10 (i) Makes all necessary court filings to advance the guardian ad litem's or  
11 court-appointed counsel's position regarding the best interest of the client;  
12 and

13 (j) Who represents a minor:

14 1. Conducts an independent investigation regarding the minor at issue,  
15 the minor's family, and what constitutes the best interest of the minor.

16 The guardian ad litem may interview the minor's Cabinet for Health  
17 and Family Services caseworker but may not:

18 a. Rely exclusively on the conclusions and findings of the Cabinet  
19 for Health and Family Services; or

20 b. Except as provided in subsection (5) of this section, conduct a  
21 visit with the client in conjunction with the visit of a Cabinet for  
22 Health and Family Services caseworker;

23 2. If the minor is placed in an out-of-home placement, or is being  
24 considered for placement in an out-of-home placement, unless it  
25 would be detrimental to the minor:

26 a. To the extent possible, determines the minor's goals and  
27 concerns regarding placement; and

- 1                   **b. Personally assesses or supervises an assessment of the**  
2                   **appropriateness and safety of the minor's environment in each**  
3                   **placement;**
- 4                   **3. Is familiar with local experts who can provide consultation and**  
5                   **testimony regarding the reasonableness and appropriateness of efforts**  
6                   **made by the Cabinet for Health and Family Services to:**
- 7                   **a. Maintain a minor in the minor's home; or**  
8                   **b. Reunify a minor with the minor's parent; and**
- 9                   **4. In cases where a plan for reunification is required, personally or**  
10                   **through a trained volunteer, paralegal, or other trained staff, monitors**  
11                   **implementation of a minor's plan for reunification and any**  
12                   **dispositional orders to determine whether services ordered by the**  
13                   **court:**
- 14                   **a. Are actually provided;**  
15                   **b. Are provided in a timely manner; and**  
16                   **c. Are accomplishing the intended goal of the services, to the extent**  
17                   **an assessment can be made.**
- 18                   **(4) (a) A guardian ad litem and court-appointed counsel shall represent the best**  
19                   **interest of the client.**
- 20                   **(b) If the client's wishes differ from the guardian ad litem's or court-appointed**  
21                   **counsel's determination of the client's best interest, the guardian ad litem or**  
22                   **the court-appointed counsel shall communicate the client's wishes to the**  
23                   **court in addition to presenting his or her determination of the client's best**  
24                   **interest.**
- 25                   **(c) A difference between the client's wishes and the guardian ad litem's or the**  
26                   **court-appointed counsel's determination of best interest may not be**  
27                   **considered a conflict of interest for the attorney.**

1 (d) The guardian ad litem or court-appointed counsel shall disclose the wishes  
 2 of the client unless the client:

3 1. Instructs the guardian ad litem to not disclose the client's wishes; or

4 2. Has not expressed any wishes.

5 (e) The court may appoint one (1) guardian ad litem or court-appointed  
 6 counsel to represent the best interests of more than one (1) child of the same  
 7 parents.

8 (f) In every hearing where the guardian ad litem or court-appointed counsel  
 9 makes a recommendation regarding the best interest of the client, the court  
 10 shall require the guardian ad litem or court-appointed counsel to disclose  
 11 the factors that form the basis of the recommendation.

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

16 (6) A guardian ad litem or court-appointed counsel shall be provided access to all  
 17 Cabinet for Health and Family Service records regarding the client at issue and  
 18 the client's family.

19 (7) A guardian ad litem or court-appointed counsel shall:

20 (a) Continue to represent the client until released from that duty by the court;  
 21 and

22 (b) Maintain current and accurate records regarding:

23 1. The number of times the attorney has had contact with the client; and

24 2. The actions the attorney has taken in representation of the client.

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

26 (1) Courts shall implement measures to accommodate the special needs of children  
 27 which are not unduly burdensome to the rights of the defendant, including, but not

1 limited to:

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

6 (b) During trials involving child victims or child witnesses, the environment of  
7 the courtroom shall be modified to accommodate children through the use of  
8 small chairs, frequent breaks, and the use of age appropriate language.

9 (c) Children expected to testify shall be prepared for the courtroom experience by  
10 the Commonwealth's or county attorney handling the case with the assistance  
11 of the guardian ad litem pursuant to Sections 1 to 3 and 8 of this Act or  
12 special advocate.

13 (d) In appropriate cases, procedures shall be used to shield children from visual  
14 contact with alleged perpetrator.

15 (2) The Supreme Court is encouraged to issue rules for the conduct of criminal and  
16 civil trials involving child abuse in which a child victim or child witness may testify  
17 at the trial.

18 ➔Section 10. KRS 49.120 is amended to read as follows:

19 (1) All claims must be filed with the commission within one (1) year from the time the  
20 claim for relief accrued.

21 (2) The claim for relief shall be deemed to accrue at the time of the negligent act with  
22 regard to property damage.

23 (3) The claim for relief for personal injury shall be deemed to accrue at the time the  
24 personal injury is first discovered by the claimant or in the exercise of reasonable  
25 care should have been discovered; however, no action for personal injury shall be  
26 commenced beyond two (2) years from the date on which the alleged negligent act  
27 or omission actually occurred.

1 (4) Notwithstanding subsection (3) of this section, the claim for relief for medical  
2 malpractice shall be deemed to accrue at the time the personal injury is first  
3 discovered by the claimant or in the exercise of reasonable care should have been  
4 discovered; however, no action for personal injury as a result of medical  
5 malpractice shall be commenced beyond three (3) years from the date on which the  
6 alleged negligent act or omission of malpractice actually occurred.

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

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

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

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

1 property belonged to the person of unsound mind before he became of unsound  
2 mind.

3 (3) No entire estate shall be sold, for taxes and costs chargeable to the owner of the  
4 particular estate, for less than its certified assessed value, so as to defeat any  
5 reversion, remainder or other future estate outstanding, unless the reversioners,  
6 remaindermen or holders of other future estates are ascertained and are of full age,  
7 and no such entire estate shall ever be put up to sale unless the particular estate of  
8 the taxpayer has first been put up and has failed to bring the amount of the taxes and  
9 costs.

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

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

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

20 (b) The parental rights of the parents have been terminated under KRS Chapter  
21 625;

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

25 (d) The biological parent has not established parental rights as required by KRS  
26 625.065.

27 (2) A minor parent who is a party defendant may consent to an adoption but a guardian

1 ad litem for the parent shall be appointed pursuant to Sections 1 to 3 and 8 of this  
2 Act.

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

5 (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be  
6 granted without the consent of the biological living parents of a child if it is pleaded  
7 and proved as a part of the adoption proceedings that any of the provisions of KRS  
8 625.090 exist with respect to the child.

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

14 ➔Section 13. KRS 199.502 is amended to read as follows:

15 (1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted  
16 without the consent of the biological living parents of a child if it is pleaded and  
17 proved as part of the adoption proceeding that any of the following conditions exist  
18 with respect to the child:

19 (a) That the parent has abandoned the child for a period of not less than ninety  
20 (90) days;

21 (b) That the parent had inflicted or allowed to be inflicted upon the child, by other  
22 than accidental means, serious physical injury;

23 (c) That the parent has continuously or repeatedly inflicted or allowed to be  
24 inflicted upon the child, by other than accidental means, physical injury or  
25 emotional harm;

26 (d) That the parent has been convicted of a felony that involved the infliction of  
27 serious physical injury to a child named in the present adoption proceeding;



- 1 (e) That the parent, for a period of not less than six (6) months, has continuously  
2 or repeatedly failed or refused to provide or has been substantially incapable  
3 of providing essential parental care and protection for the child, and that there  
4 is no reasonable expectation of improvement in parental care and protection,  
5 considering the age of the child;
- 6 (f) That the parent has caused or allowed the child to be sexually abused or  
7 exploited;
- 8 (g) That the parent, for reasons other than poverty alone, has continuously or  
9 repeatedly failed to provide or is incapable of providing essential food,  
10 clothing, shelter, medical care, or education reasonably necessary and  
11 available for the child's well-being and that there is no reasonable expectation  
12 of significant improvement in the parent's conduct in the immediately  
13 foreseeable future, considering the age of the child;
- 14 (h) That:
- 15 1. The parent's parental rights to another child have been involuntarily  
16 terminated;
  - 17 2. The child named in the present adoption proceeding was born  
18 subsequent to or during the pendency of the previous termination; and
  - 19 3. The condition or factor which was the basis for the previous termination  
20 finding has not been corrected;
- 21 (i) That the parent has been convicted in a criminal proceeding of having caused  
22 or contributed to the death of another child as a result of physical or sexual  
23 abuse or neglect; or
- 24 (j) That the parent is a putative father, as defined in KRS 199.503, who fails to  
25 register as the minor's putative father with the putative father registry  
26 established under KRS 199.503 or the court finds, after proper service of  
27 notice and hearing, that:

- 1           1.    The putative father is not the father of the minor;
- 2           2.    The putative father has willfully abandoned or willfully failed to care for
- 3                 and support the minor; or
- 4           3.    The putative father has willfully abandoned the mother of the minor
- 5                 during her pregnancy and up to the time of her surrender of the minor, or
- 6                 the minor's placement in the home of the petitioner, whichever occurs
- 7                 first.
- 8    (2)    Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
- 9           findings of fact, conclusions of law, and a decision either:
- 10         (a)   Granting the adoption without the biological parent's consent; or
- 11         (b)   Dismissing the adoption petition, and stating whether the child shall be
- 12                 returned to the biological parent or the child's custody granted to the state,
- 13                 another agency, or the petitioner.
- 14    (3)    A biological living parent has the right to legal representation in an adoption
- 15           wherein he or she does not consent. The Circuit Court shall determine if a
- 16           biological living parent is indigent and, therefore, entitled to counsel pursuant KRS
- 17           Chapter 31. If the Circuit Court so finds, the Circuit Court shall inform the indigent
- 18           parent; and, upon request, if it appears reasonably necessary in the interest of
- 19           justice, the Circuit Court shall appoint an attorney to represent the biological living
- 20           parent pursuant to Sections 1 to 3 and 8 of this Act~~[KRS Chapter 31]~~ to be
- 21           provided or paid for by:
- 22         (a)   The petitioner, a fee to be set by the court and not to exceed five hundred
- 23                 dollars (\$500); or
- 24         (b)   The Finance and Administration Cabinet if the petitioner is a blood relative or
- 25                 fictive kin as established in KRS 199.470(4)(a), a fee to be set by the court
- 26                 and not to exceed five hundred dollars (\$500).
- 27         ➔Section 14.   KRS 202A.121 is amended to read as follows:

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

9 →Section 15. KRS 202B.210 is amended to read as follows:

10 Upon the filing of a petition for involuntary admission pursuant to KRS 202B.045, the  
11 court shall appoint an attorney to represent the respondent *pursuant to Sections 1 to 3*  
12 *and 8 of this Act* with the appointment and representation to continue unless the  
13 respondent retains private counsel. The appointed attorney shall be forthwith notified by  
14 the clerk of the allegations in the petition and the date and purpose of the preliminary  
15 hearing. ~~When it is necessary to appoint counsel, the District Court shall endeavor to~~  
16 ~~appoint private counsel, if available, to represent respondents, from a list of attorneys~~  
17 ~~who have volunteered to represent such respondents. The list shall be maintained by the~~  
18 ~~District Court clerk. Private counsel appointed by the court shall be compensated in the~~  
19 ~~manner set forth in KRS 620.100. If no other method of appointing counsel for the~~  
20 ~~respondent is available, the respondent shall be represented by the public advocate~~  
21 ~~pursuant to KRS Chapter 31.]~~

22 →Section 16. KRS 202B.250 is amended to read as follows:

23 (1) No less than once in every five (5) years following the initial order for involuntary  
24 admission of a resident to an ICF/ID, or an order authorizing continued care and  
25 treatment following review pursuant to this section, the court shall hold a hearing to  
26 review the status of the resident and necessity for continued care and treatment in  
27 the ICF/ID. Notice at least twenty (20) days in advance of the hearing shall be

1 provided by the court to the ICF/ID, county attorney, guardian or limited guardian  
2 of the resident, if any, or, if none, an immediate family member as listed on the last  
3 interdisciplinary report filed by the ICF/ID. The court shall appoint an attorney  
4 pursuant to Sections 1 to 3 and 8 of this Act to represent the resident at the review  
5 hearing.

6 (2) The review hearing may be informal and held in open court, in chambers, or at the  
7 ICF/ID. The hearing shall be held without a jury and the resident shall be entitled to  
8 present documentary evidence and witnesses and cross-examine witnesses against  
9 the resident.

10 (3) At the conclusion of the review hearing, the court shall make written findings of  
11 fact concerning whether the criteria for involuntary admission set forth in KRS  
12 202B.040 continue to be satisfied based upon clear and convincing evidence. If the  
13 court finds that the involuntary admission criteria continue to be satisfied, the court  
14 shall enter an order authorizing the continued care and treatment of the resident at  
15 the ICF/ID and shall establish the period within which the next review shall be held.  
16 Otherwise, the court shall enter an order requiring the resident to be discharged  
17 from the ICF/ID.

18 (4) If at any point during the resident's placement at an ICF/ID it appears that the  
19 resident no longer meets the criteria for involuntary admission set forth in KRS  
20 202B.040, the resident, the resident's parent, guardian or limited guardian,  
21 immediate family member, or attorney may request a review pursuant to this  
22 section.

23 ➔Section 17. KRS 209.110 is amended to read as follows:

24 (1) A petition by the cabinet for emergency protective services shall be verified by an  
25 authorized representative of the cabinet and shall set forth the name, age, and  
26 address of the adult in need of protective services; the nature of the disability of the  
27 adult, if determinable; the proposed protective services; the petitioner's reasonable

1 belief, together with the facts supportive thereof, as to the existence of the facts, and  
2 the facts showing the petitioner's attempts to obtain the adult's consent to the  
3 services and the outcomes of such attempts. The petition and all subsequent court  
4 documents shall be entitled: "In the interest of----- , an adult in need of protective  
5 services." The petition shall be filed in the court of the adult's residence, or if filed  
6 pursuant to KRS 209.130, the court of the county in which the adult is physically  
7 located.

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

15 (3) Following the filing of a petition, a summons shall be issued and served with a copy  
16 of the petition, and notice of the time, date and location of the hearing to be held on  
17 the petition. Service shall be made upon the adult and his guardian or, if none, his  
18 caretaker. Should the adult have no guardian or caretaker, service shall be made  
19 upon the adult's guardian ad litem. Notice of the hearing shall be given to the adult's  
20 spouse, or, if none, to his adult children or next of kin, unless the court is satisfied  
21 that notification would be impractical. Service shall not be made upon any person  
22 who is believed to have perpetrated the abuse, neglect, or exploitation. Service of  
23 the petition shall be made at least three (3) calendar days prior to the hearing for  
24 emergency protective services.

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

27 (a) The hearing on the petition, in the interests of expedition, may be held in any

1 county within the judicial district or circuit served by the court. The court  
2 shall give priority to the holdings of the hearings pursuant to petitions filed  
3 under this chapter;

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

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

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

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

16 ➔Section 18. KRS 311.732 is amended to read as follows:

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

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

19 (b) "Emancipated minor" means any minor who is or has been married or has by  
20 court order or otherwise been freed from the care, custody, and control of her  
21 parents; and

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

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

- 1 (a) The attending physician or his agent secured the informed written consent of  
2 the minor and one (1) parent or legal guardian;
- 3 (b) The minor is emancipated and the attending physician or his agent has  
4 received the informed written consent of the minor; or
- 5 (c) The minor elects to petition any Circuit or District Court of the  
6 Commonwealth pursuant to subsection (3) of this section and obtain an order  
7 pursuant to subsection (4) of this section granting consent to the abortion and  
8 the attending physician or his agent has received the informed written consent  
9 of the minor.
- 10 (3) Every minor shall have the right to petition any Circuit or District Court of the  
11 Commonwealth for an order granting the right to self-consent to an abortion  
12 pursuant to the following procedures:
- 13 (a) The minor or her next friend may prepare and file a petition setting forth the  
14 request of the minor for an order of consent to an abortion;
- 15 (b) The court shall insure that the minor prepares or her next friend is given  
16 assistance in preparing and filing the petition and shall insure that the minor's  
17 identity is kept anonymous;
- 18 (c) The minor may participate in proceedings in the court on her own behalf or  
19 through her next friend and the court shall appoint a guardian ad litem for her  
20 *pursuant to Sections 1 to 3 and 8 of this Act*. The court shall advise her that  
21 she has a right to court-appointed counsel *pursuant to Sections 1 to 3 and 8*  
22 *of this Act* and shall provide her with such counsel upon her request;
- 23 (d) All proceedings under this section shall be anonymous and shall be given  
24 preference over other matters to insure that the court may reach a decision  
25 promptly, but in no case shall the court fail to rule within seventy-two (72)  
26 hours of the time of application, provided that the seventy-two (72) hour  
27 limitation may be extended at the request of the minor; and

- 1 (e) The court shall hold a hearing on the merits of the petition before reaching a  
2 decision. The court shall hear evidence at the hearing relating to the emotional  
3 development, maturity, intellect, and understanding of the minor; the nature,  
4 possible consequences, and alternatives to the abortion; and any other  
5 evidence that the court may find useful in determining whether the minor  
6 should be granted majority rights for the purpose of consenting to the abortion  
7 or whether the abortion is in the best interest of the minor.
- 8 (4) The court shall enter a written order, making specific factual findings and legal  
9 conclusions supporting its decision as follows:
- 10 (a) Granting the petition for an abortion if the court finds that the minor is mature  
11 and well informed enough to make the abortion decision on her own;
- 12 (b) Granting consent to the abortion if the court finds that the performance of the  
13 abortion would be in the minor's best interest; or
- 14 (c) Deny the petition, if the court finds that the minor is immature and that  
15 performance of the abortion would not be in the minor's best interest.
- 16 (5) Any minor shall have the right of anonymous and expedited appeal to the Court of  
17 Appeals, and that court shall give precedence over other pending matters.
- 18 (6) No fees shall be required of any minor who declares she has no sufficient funds to  
19 pursue the procedures provided by this section.
- 20 (7) The Supreme Court is respectfully requested to promulgate any rules and  
21 regulations it feels are necessary to ensure that proceedings under this section are  
22 handled in an expeditious and anonymous manner.
- 23 (8) The requirements of subsections (2), (3), and (4) of this section shall not apply  
24 when, in the best medical judgment of the physician based on the facts of the case  
25 before him, a medical emergency exists that so complicates the pregnancy as to  
26 require an immediate abortion. A physician who does not comply with subsection  
27 (2), (3), or (4) of this section due to the utilization of this exception shall certify in



1 writing the medical indications upon which his judgment was based.

2 (9) A report indicating the basis for any medical judgment that warrants failure to  
3 obtain consent pursuant to this section shall be filed with the Cabinet for Health and  
4 Family Services on a form supplied by the cabinet. This report shall be confidential.

5 (10) Failure to obtain consent pursuant to the requirements of this section is prima facie  
6 evidence of failure to obtain informed consent and of interference with family  
7 relations in appropriate civil actions. The law of this state shall not be construed to  
8 preclude the award of exemplary damages in any appropriate civil action relevant to  
9 violations of this section. Nothing in this section shall be construed to limit the  
10 common-law rights of parents.

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

12 All of the persons in being who have any present or contingent interest in the lands or  
13 estate or interest sought to be leased shall be made parties to the proceedings authorized  
14 in KRS 353.300 to 353.380, with any infant or infants being represented either by next  
15 friend or statutory guardian or guardian ad litem *pursuant to Sections 1 to 3 and 8 of this*  
16 *Act*, or in the case of constructive service of summons by a warning order attorney  
17 appointed as in other cases. Any person adjudged mentally disabled shall be represented  
18 by his guardian or conservator or by guardian ad litem *pursuant to Sections 1 to 3 and 8*  
19 *of this Act*, or, in the case of constructive service of summons as in civil actions  
20 generally, by a warning order attorney appointed as in other cases. If the court specifically  
21 finds that the welfare or interest of any person or persons not in being requires special  
22 representation, the court may appoint a trustee ad litem to represent such unknown parties  
23 not in being or each separate class thereof, and such trustee ad litem shall file such  
24 pleadings or answer and take such steps as he deems proper, and such unknown persons  
25 will be fully bound by the proceedings hereunder. Otherwise, and in the absence of such  
26 finding by the court, it shall not be necessary to make parties any persons not in being,  
27 either as "unknown defendants" or otherwise, but the persons in being who are parties

1 shall stand for and represent the full title and whole interest in said lands or estate or  
2 interest therein, and all parties not in being who might have some contingent or future  
3 interest therein, and all persons, whether in being or not in being, having any interest,  
4 present, future or contingent, in the property sought to be leased, will be fully bound by  
5 the proceedings hereunder. It shall be permissible, however, to make defendants any  
6 unknown persons who might have any interest in the land sought to be leased, under the  
7 style of "unknown  
8 defendants."

9 →Section 20. KRS 387.125 is amended to read as follows:

- 10 (1) A guardian shall apply the income or principal of the ward's estate to the payment of  
11 debts, taxes, claims, charges, and expenses of the guardianship and, in accordance  
12 with KRS 387.065, for the support, care, and education of the ward or the ward's  
13 dependents.
- 14 (2) A guardian shall take possession of all of the ward's real and personal property.
- 15 (3) A guardian may sell any of the ward's personal property without District Court  
16 authorization or confirmation. To sell any of the ward's real property, a guardian  
17 shall comply with the provisions of KRS Chapter 389A.
- 18 (4) A guardian shall invest any of the ward's money or property which is not required  
19 for the ward's current support, care and education. The investments made of a  
20 ward's funds shall be investments authorized by KRS 386.020.
- 21 (5) A guardian may expend the ward's funds to repair and maintain the ward's personal  
22 and real property.
- 23 (6) A guardian may institute or defend actions, claims, or proceedings in any  
24 jurisdiction for the protection of the ward's estate. Subject to the approval of the  
25 court in which the action, claim, or proceeding has been filed, a guardian may settle  
26 or compromise the action, claim, or proceeding on behalf of the ward. If the action,  
27 claim, or proceeding has not been filed in any court, the District Court of the county

1 where a guardian qualified shall approve the settlement or compromise. Upon  
2 approval of a settlement or compromise, a guardian may execute a release on behalf  
3 of the ward. A guardian shall receive any proceeds from a settlement for  
4 management in accordance with the provisions of this statute.

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

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

10 (a) Any lease of mineral rights;

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

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

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

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

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

19 ➔Section 21. KRS 387.305 is amended to read as follows:

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

25 (2) A guardian ad litem must be a regular, practicing attorney of the court and may be  
26 appointed by the court pursuant to Sections 1 to 3 and 8 of this Act, whether a  
27 guardian, curator, or conservator appear for the defendant or not. The guardian ad

1 litem may be appointed upon the motion of the plaintiff or of any friend of the  
2 defendant; but neither the plaintiff nor his attorney shall be appointed, nor be  
3 permitted to suggest the name of the proposed guardian ad litem; and the court may  
4 change the guardian so appointed whenever the interest of the infant may appear to  
5 require such change.

6 (3) It shall be the duty of the guardian ad litem to attend properly to the preparation of  
7 the case; and in an ordinary action he may cause as many witnesses to be  
8 subpoenaed as he may think proper, subject to the control of the court; and in an  
9 equitable action he may take depositions, not, however, exceeding three (3), without  
10 leave of the court.

11 (4) The court shall allow to the guardian ad litem a reasonable fee, not to exceed five  
12 hundred dollars (\$500), for his services, to be paid by the plaintiff and taxed in the  
13 costs. The affidavit of such guardian, or of another person, or other competent  
14 evidence, is admissible to prove the services rendered, but not to prove their value.  
15 The court must decide concerning such value, without reference to the opinions of  
16 parties or other witnesses.

17 (5) Whether appointed pursuant to this statute or pursuant to a provision of the  
18 Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to  
19 advocate for the client's best interest in the proceeding through which the guardian  
20 ad litem was appointed. Without an appointment, the guardian ad litem shall have  
21 no obligation to initiate action or to defend the client in other proceedings.

22 ➔Section 22. KRS 387.880 is amended to read as follows:

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

1           ➔Section 23. KRS 388.250 is amended to read as follows:

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

18           ➔Section 24. KRS 389A.030 is amended to read as follows:

19 (1) When two (2) or more persons other than tenants by the entirety in residential  
20 property actually occupied by them as a principal residence share title to real estate  
21 in such manner that a conveyance by them jointly would pass a fee simple title, any  
22 one (1) or more of them may bring an action for the sale or division thereof in the  
23 Circuit Court of the county in which the land, or the greater part thereof, lies,  
24 making parties defendant those owners who have not joined as plaintiffs. A  
25 fiduciary possessing a power of sale may institute such an action against owners of  
26 interests not represented by him. Defendant owners shall be brought before the  
27 court in the manner provided by the civil rules whether or not a fiduciary possesses

- 1 a power of sale of the defendant's interest, but any fiduciary possessing such a  
2 power shall also be made a defendant. The case shall be tried without a jury.
- 3 (2) A defendant who is under disability and for whom no fiduciary is acting shall be  
4 represented in the action by a guardian ad litem pursuant to Sections 1 to 3 and 8  
5 of this Act, but in the event of sale of such defendant's interest the court shall retain  
6 control of the proceeds of such interest until a duly appointed and adequately  
7 bonded fiduciary or custodian pursuant to a court order makes claim to the funds.
- 8 (3) In all such actions indivisibility of the real estate shall be presumed unless an issue  
9 in respect thereto is raised by the pleading of any party, and if the court is satisfied  
10 from the evidence that the property is divisible, without materially impairing the  
11 value of any interest therein, division thereof pursuant to KRS 381.135 shall be  
12 ordered.
- 13 (4) If a sale of all or any part of the real estate shall be ordered, the court shall refer the  
14 matter to the master commissioner or appoint a commissioner to conduct a public  
15 sale and convey the property upon terms of sale and disposition of the net proceeds  
16 as may have been determined by the court.
- 17 (5) The death of any party pending the action and prior to distribution of the proceeds  
18 of sale or setting apart a divisible share shall not affect the action but the court may  
19 direct distribution or apportionment to the successors in interest of the decedent  
20 upon application therefor.
- 21 (6) If the interest of any party be one for life, or other term, in any portion of the real  
22 estate, the court shall determine the value of such interest and direct that such party  
23 receive a portion of the net sale proceeds or portion of the property if divisible, in  
24 fee in satisfaction of such interest, but if any party to the action objects to such  
25 procedure, and if the court finds that such procedure would defeat the objects and  
26 purpose of a person not a party to the action, such as a testator, grantor or settlor,  
27 but that sale or division is nevertheless desirable, the court shall order that the

1 interest of the life or term tenant shall continue as to his portion of the real estate or  
2 the net proceeds of the sale thereof, in the latter case by directing that the funds  
3 derived from the sale of that portion of the real estate in which the life or term  
4 interest existed be paid to a trustee, appointed by and accountable to the District  
5 Court, for reinvestment and distribution of income and principal in a manner  
6 consistent with the instrument under which the life or term estate was created.

7 ➔Section 25. KRS 389A.035 is amended to read as follows:

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

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

19 Any person interested in such probate may be summoned, or proceeded against by  
20 warning order, and if an infant or mentally disabled person, a guardian ad litem shall be  
21 appointed *pursuant to Sections 1 to 3 and 8 of this Act*.

22 ➔Section 27. KRS 404.060 is amended to read as follows:

- 23 (1) A married woman may sue, and be sued, as a single woman.  
24 (2) She may defend an action against her and her husband for herself, and for him also  
25 if he fail to defend.  
26 (3) If a husband desert his wife, she may bring or defend for him any action which he  
27 might bring or defend, and shall have the powers and rights with reference thereto

1 which he would have had but for such desertion.

2 (4) If a female party to an action marry, her husband may be made a party by a motion,  
3 causing the fact to be stated upon the record; and the action shall not be delayed by  
4 reason of the marriage.

5 (5) But if a wife be adjudged mentally disabled, or imprisoned, the actions mentioned  
6 in subsections (1), (2) and (3), of this section must be prosecuted or defended by her  
7 guardian, conservator, or curator, if she have one, and if she have none, must be  
8 prosecuted by her next friend, or defended by her guardian ad litem *pursuant to*  
9 *Sections 1 to 3 and 8 of this Act.*

10 ➔Section 28. KRS 620.100 is amended to read as follows:

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

15 (a) The court shall appoint counsel for the child to be paid for by the *Justice and*  
16 *Public Safety*~~[Finance and Administration]~~ Cabinet *pursuant to Sections 1 to*  
17 *3 and 8 of this Act.* Counsel shall document participation in training on the  
18 role of counsel that includes training in early childhood, child, and adolescent  
19 development. The clerk of the court shall arrange for service on all parties,  
20 including the local representative of the Cabinet for Health and Family  
21 Services, of the order appointing counsel. The fee to be fixed by the court  
22 shall not exceed five hundred dollars (\$500)~~]; however, if the action has final~~  
23 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~  
24 ~~dollars (\$250)];~~

25 (b) The court shall appoint separate counsel for the parent who exercises custodial  
26 control or supervision *pursuant to Sections 1 to 3 and 8 of this Act,* if the  
27 parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of



1 the court shall arrange for service on all parties, including the local  
2 representative of the Cabinet for Health and Family Services, of the order  
3 appointing counsel. The parent's counsel shall be provided or paid for by the  
4 **Justice and Public Safety**~~[Finance and Administration]~~ Cabinet. The fee to be  
5 fixed by the court shall not exceed five hundred dollars (\$500)~~}; however, if~~  
6 ~~the action has final disposition in the District Court, the fee shall not exceed~~  
7 ~~two hundred fifty dollars (\$250)}~~;

- 8 (c) The court shall appoint separate counsel for a person claiming to be a de facto  
9 custodian, as defined in KRS 403.270, **pursuant to Sections 1 to 3 and 8 of**  
10 **this Act**, if the person is unable to afford counsel pursuant to KRS Chapter 31.  
11 The clerk of the court shall arrange for service on all parties, including the  
12 local representative of the Cabinet for Health and Family Services, of the  
13 order appointing counsel. The person's counsel shall be provided or paid for  
14 by the **Justice and Public Safety**~~[Finance and Administration]~~ Cabinet. The  
15 fee to be fixed by the court shall not exceed five hundred dollars (\$500)~~};~~  
16 ~~however, if the action has final disposition in the District Court, the fee shall~~  
17 ~~not exceed two hundred fifty dollars (\$250)}~~;

- 18 (d) The court may, in the interest of justice, appoint separate counsel for a  
19 nonparent who exercises custodial control or supervision of the child  
20 **pursuant to Sections 1 to 3 and 8 of this Act**, if the person is unable to afford  
21 counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for  
22 service on all parties, including the local representative of the Cabinet for  
23 Health and Family Services, of the order appointing counsel. Counsel for the  
24 person shall be provided or paid for by the **Justice and Public Safety**~~[Finance~~  
25 ~~and Administration]~~ Cabinet. The fee to be fixed by the court shall not exceed  
26 five hundred dollars (\$500)~~}; however, if the action has final disposition in the~~  
27 ~~District Court, the fee shall not exceed two hundred fifty dollars (\$250)}~~; and

- 1 (e) The court may, in the interest of justice, appoint a court-appointed special  
2 advocate volunteer to represent the best interests of the child pursuant to KRS  
3 620.500 to 620.550. The clerk of the court shall arrange for service on all  
4 parties, including the local representative of the cabinet, of the order  
5 appointing the court-appointed special advocate volunteer.
- 6 (2) If the court determines that further proceedings are required, the court also shall  
7 advise the child and his parent or other person exercising custodial control or  
8 supervision that they have a right to not incriminate themselves, and a right to a full  
9 adjudicatory hearing at which they may confront and cross-examine all adverse  
10 witnesses, present evidence on their own behalf and to an appeal.
- 11 (3) The adjudication shall determine the truth or falsity of the allegations in the  
12 complaint. The burden of proof shall be upon the complainant, and a determination  
13 of dependency, neglect, and abuse shall be made by a preponderance of the  
14 evidence. The Kentucky Rules of Civil Procedure shall apply.
- 15 (4) The disposition shall determine the action to be taken by the court on behalf of the  
16 child and his parent or other person exercising custodial control or supervision.
- 17 (5) Foster parents, preadoptive parents, or relatives providing care for the child shall  
18 receive notice of, and shall have a right to be heard in, any proceeding held with  
19 respect to the child. This subsection shall not be construed to require that a foster  
20 parent, preadoptive parent, or relative caring for the child be made a party to a  
21 proceeding solely on the basis of the notice and right to be heard.
- 22 ➔Section 29. KRS 625.0405 is amended to read as follows:
- 23 (1) A parent desiring the termination of his or her parental rights and a transfer of the  
24 parental rights to a person, persons, the cabinet, or a child-placing agency licensed  
25 by the cabinet for the purpose of adoption may prior to or upon the filing of the  
26 petition request the Circuit Court to appoint an attorney to represent the parent and  
27 provide legal representation in the termination action. If the court determines

1 pursuant to KRS Chapter 31 that the requesting parent is indigent, the court shall  
 2 appoint an attorney (within forty-eight (48) hours) **pursuant to Sections 1 to 3 and**  
 3 **8 of this Act** to represent the indigent parent. The attorney for the indigent parent  
 4 shall receive a fee to be fixed by the court, not to exceed five hundred dollars (\$500)  
 5 and assessed as costs, and the court may order the costs to be paid by the proposed  
 6 adoptive parent, parents, or agency before the entry of a judgment of termination,  
 7 except the attorney's fee shall be paid by the **Justice and Public Safety**~~Finance and~~  
 8 ~~Administration~~ Cabinet if termination is not granted, or if custody of the child is  
 9 placed with the cabinet.

10 (2) (a) In every voluntary termination proceeding, the expenses paid, including but  
 11 not limited to any fees for legal services, placement services, and expenses of  
 12 the biological parent or parents, by the prospective adoptive parent for any  
 13 purpose related to a termination of parental rights shall be submitted to the  
 14 court, supported by an affidavit, setting forth in detail a listing of the expenses  
 15 for the court's approval or modification.

16 (b) In the event the court modifies the expense request as it relates to legal fees  
 17 and legal expenses only, the attorney for the prospective adoptive parents shall  
 18 not have any claim against the prospective adoptive parents for the amount not  
 19 approved.

20 (3) Any person who violates subsection (2) of this section shall be guilty of a Class A  
 21 misdemeanor.

22 ➔Section 30. KRS 625.041 is amended to read as follows:

23 (1) The parties to an action for voluntary termination of parental rights shall be the  
 24 parent seeking termination, whose presence is not required if represented by counsel  
 25 for the parent when an appearance-waiver and consent-to-adopt form is filed with  
 26 the court, but the court shall appoint a guardian ad litem to represent the best  
 27 interest of the child **pursuant to Sections 1 to 3 and 8 of this Act.**

- 1 (2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five  
2 hundred dollars (\$500), to be paid by the petitioner, except if the Cabinet for Health  
3 and Family Services receives custody of the child, the guardian ad litem shall be  
4 paid by the ***Justice and Public Safety***~~[Finance and Administration]~~ Cabinet.
- 5 (3) The parent may sign an appearance-waiver and consent-to-adopt form when the  
6 parent chooses not to attend a voluntary termination of parental rights proceedings.  
7 This form, prescribed by the Administrative Office of the Courts, shall:
- 8 (a) Contain a statement of acknowledgment and agreement, regarding the  
9 appearance at the proceeding, signed by the parent, counsel for the parent, and  
10 the cabinet. If the parent is a minor, the form shall also be signed by the  
11 guardian of the minor parent;
- 12 (b) Contain the parent's notarized signature;
- 13 (c) Contain any address to which the parent requests the final judgment be served.
- 14 (4) If a joint petition is filed, counsel shall be designated as attorney for both parties.
- 15 ➔Section 31. KRS 625.080 is amended to read as follows:
- 16 In any involuntary action for termination of parental rights:
- 17 (1) The Circuit Court shall conduct a private hearing. An official stenographic or  
18 mechanical record shall be made of the proceedings and retained for a period of five  
19 (5) years. The court shall make findings of fact and conclusions of law, which may  
20 be made on the record, to support its judgment;
- 21 (2) Any child to whom an involuntary action directly relates shall be made a party to  
22 the action and a guardian ad litem shall be appointed to represent the best interests  
23 of the child ***pursuant to Sections 1 to 3 and 8 of this Act***. The person appointed as  
24 a guardian ad litem shall be paid a fee not to exceed five hundred dollars (\$500), to  
25 be paid by the ***Justice and Public Safety***~~[Finance and Administration]~~ Cabinet  
26 when the cabinet is the proposed custodian. When the cabinet is not the proposed  
27 custodian, the court may order the cost to be paid by the proposed adoptive parent,

1 parents, agency, or the petitioner. Upon motion of any party, the child may be  
2 permitted to be present during the proceedings and to testify if the court finds such  
3 to be in the best interests of the child. In its discretion, the Circuit Court may  
4 interview the child in private, but a record of the interview shall be made, which, in  
5 the discretion of the court, may be sealed to be used only by an appellate court;

6 (3) The parents have the right to legal representation in involuntary termination actions.  
7 The Circuit Court shall determine if the parent is indigent and, therefore, entitled to  
8 counsel pursuant to KRS Chapter 31. If the Circuit Court so finds, the Circuit Court  
9 shall inform the parent; and, upon request, if it appears reasonably necessary in the  
10 interest of justice, the Circuit Court shall appoint an attorney to represent the parent  
11 pursuant to Sections 1 to 3 and 8 of this Act~~[KRS Chapter 31]~~ to be provided or  
12 paid for by the Justice and Public Safety~~[Finance and Administration]~~ Cabinet a  
13 fee to be set by the court and not to exceed five hundred dollars (\$500);

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

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

19 ➔Section 32. Sections 8 to 31 of this Act take effect July 1, 2020.

20 ➔Section 33. Any guardian ad litem or court-appointed counsel appointed prior to  
21 July 1, 2020, shall continue to represent his or her client until released from that duty by  
22 the court. After July 1, 2020, guardians ad litem and court-appointed counsel shall be  
23 appointed pursuant to Sections 1 to 3 and 8 to 31 of this Act.