

1 AN ACT relating to children.

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

3 ➔Section 1. KRS 158.448 is amended to read as follows:

4 The Kentucky Department of Education shall develop protocols for student records
5 within the student information system which:

6 (1) Provide notice to schools receiving the records of prior offenses described in KRS
7 610.345 committed by a student transferring to a new school or district;~~and~~

8 (2) **Promote expeditious enrollment and placement of students in foster care who are**
9 **transferring to a new school or district, in accordance with the federal Every**
10 **Student Succeeds Act of 2015, Pub. L. No. 114-95;**

11 (3) **Promote the sharing of information regarding students in foster care among**
12 **schools, districts, the Cabinet for Health and Family Services, and a child's**
13 **caseworker, pursuant to applicable law; and**

14 (4) Protect the privacy rights of students and parents guaranteed under the federal
15 Family Educational Rights and Privacy Act.

16 ➔Section 2. KRS 159.170 is amended to read as follows:

17 (1) Whenever any child of compulsory school age withdraws from school, the teacher
18 of the child shall ascertain the reason. The fact of the withdrawal and the reason for
19 it shall be immediately transmitted by the teacher to the superintendent of schools of
20 the district in which the school is located. If the child has withdrawn because of
21 change of residence, the next residence shall be ascertained and included in the
22 report.

23 (2) The Kentucky Department of Education shall ensure that the student information
24 system:

25 (a) Facilitates the collection of student data and the transfer of education records
26 among schools and local districts; **and**

27 (b) **1. Exclusively in the case of a student in foster care who is transferring**

1 from one (1) district to another, allows for the foster care liaison or
 2 other designee of each local district to directly and immediately obtain
 3 education records maintained in the student information system for
 4 that student when the student enrolls without requiring staff of the
 5 former district to take action in order to release and transmit the
 6 records.

7 2. This paragraph shall be deemed to allow the release and transfer of
 8 these records only between the two (2) applicable districts exclusively
 9 in the case of students in foster care, for the purpose of promoting the
 10 student's educational stability pursuant to Section 7 of this Act and in
 11 accordance with the authority granted to the Commonwealth under 20
 12 U.S.C. sec. 1232g, relating to enrollment of students in foster care.
 13 The records shall not be released to any other person without the
 14 written consent of the parent of the child, except as otherwise allowed
 15 or directed by law.

16 (3) A school district shall notify the Kentucky Department of Education when a new
 17 student enrolls in a school in the district.

18 (4) The Kentucky Department of Education, upon notification of a student's enrollment
 19 in a school, shall forward within ten (10) working days all records regarding the
 20 student collected under this section to the receiving district.

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

23 Pursuant to the authority granted to the Commonwealth under the Family Educational
 24 Rights and Privacy Act, 20 U.S.C. sec. 1232g, when a statute within this chapter refers
 25 to the release of educational records, the purpose of the release shall be limited to
 26 providing the department with the ability to effectively serve the needs of the child
 27 whose records are sought, and any educational records shall only be released to

1 persons authorized by statute and shall not be released to any other person without the
2 written consent of the parent of the child.

3 ➔Section 4. KRS 199.640 is amended to read as follows:

- 4 (1) Any facility or agency seeking to conduct, operate, or maintain any child-caring
5 facility or child-placing agency shall first obtain a license to conduct, operate, or
6 maintain the facility or agency from the cabinet.
- 7 (2) The cabinet shall:
- 8 (a) Develop standards, as provided in subsection (5) of this section, which must
9 be met by any facility or agency seeking to be licensed to conduct, operate, or
10 maintain a child-caring facility or child-placing agency;
- 11 (b) Issue licenses to any facility or agency found to meet established standards
12 and revoke or suspend a license after a hearing in any case that a facility or
13 agency holding a license is determined to have substantially failed to conform
14 to the requirements of the standards;
- 15 (c) Establish and follow procedures designed to ~~insure~~ ensure that any facility or
16 agency licensed to conduct, operate, or maintain a child-caring facility or
17 child-placing agency complies with the requirements of the standards on an
18 ongoing basis.
- 19 (3) Licenses shall be issued for a period of one (1) year from date of issue unless
20 revoked by the cabinet. Each licensed facility or agency shall be visited and
21 inspected at least one (1) time each year by a person authorized by the cabinet and
22 meeting specific qualifications established by the secretary of the cabinet in an
23 administrative regulation. A complete report of the visit and inspection shall be
24 filed with the cabinet.
- 25 (4) Each license issued shall specify the type of care or service the licensee is
26 authorized to perform. The cabinet may promulgate administrative regulations to
27 establish fees that shall not exceed costs of the program to the cabinet, for the

1 proper administration of licensure. The fees collected by the secretary shall be
2 deposited in the State Treasury and credited to a revolving fund account for the
3 purpose of carrying out the provisions of this section. The balance of said account
4 shall lapse to the general fund at the end of each biennium.

5 (5) (a) The secretary shall promulgate administrative regulations establishing basic
6 standards of care and service for child-caring facilities and child-placing
7 agencies relating to the health and safety of all children in the care of the
8 facility or agency, the basic components for a quality program, as referenced
9 below, and any other factors as may be necessary to promote the welfare of
10 children cared for or placed by the agencies and facilities. Standards
11 established may vary depending on the capacity of the agency or facility
12 seeking licensure. These administrative regulations shall establish standards
13 that ensure~~insure~~ that:

- 14 1. The treatment program offered by the facility or agency is directed
15 toward child safety, improved child functioning, improved family
16 functioning, and continuity and permanence for the child;
- 17 2. The facility or agency has on staff, or has contracted with, individuals
18 who are qualified to meet the treatment needs of the children being
19 served, including their psychological and psychiatric needs;
- 20 3. The facility or agency has procedures in place to ensure~~insure~~ that its
21 staff receives ongoing training and that all staff members who are
22 required to do so meet all regional and national standards;
- 23 4. The facility or agency develops an integrated, outcomes-based treatment
24 plan that meets the health, mental health, education, safety, and security
25 needs of each child in its care;
- 26 5. The facility or agency has procedures in place to include parents, family,
27 and other caregivers in a child's treatment program;

- 1 6. The facility or agency has procedures in place whereby it evaluates its
2 programs on a quarterly basis and documents changes in the program if
3 the results of the review indicate a change is needed;
- 4 7. The facility or agency makes available quality programs for substance
5 abuse prevention and treatment with providers licensed under KRS
6 Chapter 222 as part of its treatment services;
- 7 8. The facility or agency initiates discharge planning at admission and
8 provides sufficient aftercare; and
- 9 9. The facility or agency has written policies and procedures in place that
10 outline the structure and objectives of cooperative relationships with the
11 community within which it is located and the local school district,
12 including outreach activities to be undertaken by the facility or agency
13 to both develop and maintain those cooperative relationships.
- 14 (b) The secretary shall promulgate administrative regulations establishing
15 recordkeeping and reporting requirements and standards for licensed agencies
16 and facilities that recognize the electronic storage and retrieval of information
17 for those facilities that possess the necessary technology and that include, at a
18 minimum, the following information relating to children in the care of the
19 agency or facility:
 - 20 1. The name, age, social security number, county of origin, and all former
21 residences of the child;
 - 22 2. The names, residences, and occupations, if available, of the child's
23 parents;
 - 24 3. The date on which the child was received by the agency or facility; the
25 date on which the child was placed in a foster home or made available
26 for adoption; and the name, occupation, and residence of any person
27 with whom a child is placed; and

1 4. A brief and continuing written narrative history of each child covering
2 the period during which the child is in the care of the agency or facility.

3 (c) The secretary may promulgate administrative regulations creating separate
4 licensure standards for different types of facilities.

5 (d) The secretary shall promulgate administrative regulations to establish
6 practices and procedures for the inspection of child-caring facilities and child-
7 placing agencies. These administrative regulations shall establish a uniform
8 reporting mechanism that includes guidelines for enforcement.

9 (6) Any administrative regulations promulgated pursuant to KRS Chapter 13A to
10 govern services provided by church-related privately operated child-caring agencies
11 or facilities shall not prohibit the use of reasonable corporal physical discipline
12 which complies with the provisions of KRS 503.110(1), including the use of
13 spanking or paddling, as a means of punishment, discipline, or behavior
14 modification and shall prohibit the employment of persons convicted of any sexual
15 offense with any child-caring facility or child-placing agency.

16 (7) All records regarding children or facts learned about children and their parents and
17 relatives by any licensed agency or facility shall be deemed confidential in the same
18 manner and subject to the same provisions as similar records of the cabinet. The
19 information thus obtained shall not be published or be open for public inspection,
20 except to authorized employees of:

21 (a) The cabinet or of such licensed agency or facility in performance of their
22 duties; and

23 (b) A school or local school district in which a child is enrolling or currently
24 enrolled, in order to identify and serve the educational needs of the child, in
25 accordance with Section 7 of this Act.

26 ➔Section 5. KRS 199.660 is amended to read as follows:

27 (1) A licensed child-placing agency may place children in any licensed child-caring

1 facility, including institutions and group homes, or in foster family homes under its
2 direct supervision, in a facility certified by an appropriate agency as operated
3 primarily for educational or medical purposes, or may place children for adoption if
4 specifically authorized by its license to do so. The child-placing agency shall
5 provide careful supervision of all children under its care and of children placed by it
6 in child-caring facilities or foster family homes, and its agents shall visit such
7 facilities or foster family homes as often as may be necessary to promote the welfare
8 of the children.

9 (2) (a) A licensed child-placing agency shall notify the department within fourteen
10 (14) calendar days of the closure of a foster family home under its
11 supervision for any reason, and shall state the reason for the closure.

12 (b) The department shall maintain a foster family home registry where this
13 closure information, and closure information for all foster family homes
14 closed by the cabinet, are stored.

15 (c) 1. A licensed child-placing agency shall not approve a foster family
16 home, and shall not place a child into any foster family home, until
17 the child-placing agency first requests information from the
18 department to determine if the prospective foster family home is listed
19 in the registry, if the foster family home has ever been closed, and the
20 reason for closure.

21 2. A licensed child-placing agency shall not approve a foster family
22 home, and shall not place a child into a foster family home, which has
23 been closed for cause by any other licensed child-placing agency or by
24 the cabinet unless the foster family home has been successfully and
25 continually operating as a cabinet foster family home for one (1) year
26 after it was closed for cause by a licensed child-placing agency.

27 3. A licensed child-placing agency shall not approve a foster family

1 home, and shall not place a child into a foster family home, which is
 2 under corrective action by any other licensed child-placing agency or
 3 by the cabinet at time of the closure unless:

4 a. The foster family home provides all information on the
 5 corrective action to the licensed child-placing agency;

6 b. The licensed child-placing agency fully addresses the foster
 7 family home's corrective action in the foster family's home study
 8 narrative; and

9 c. The department reviews and approves the foster family's home
 10 study.

11 (3) Licensed child-caring facilities and child-placing agencies shall collaborate with
 12 local school districts to promote educational stability for children under their
 13 care in accordance with Section 7 of this Act, and shall work to ensure that foster
 14 family homes under a child-placing agency's supervision understand and actively
 15 support the educational needs of the children placed in their care through
 16 training, support, and supervision of the home by the child-placing agency.

17 ➔Section 6. KRS 199.801 is amended to read as follows:

18 (1) The department shall establish a procedure throughout the state that is designed to
 19 determine and expedite the placement of children who are in the custody of or
 20 committed to the department. The procedure shall utilize state-level and regional
 21 placement coordinators who may be state employees or employees of a contracted
 22 entity.

23 (2) The type of placement selected for a child in the custody of or committed to the
 24 department shall be the best alternative for the child that is in closest proximity to
 25 the child's home county, including considerations of the child's current early care
 26 and education provider or school, in order to promote educational stability for the
 27 child to the extent practicable in accordance with Section 7 of this Act and the

1 *federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95.*

- 2 (3) If the type of placement that best suits the child's needs is not available in the child's
3 home county, the regional placement coordinator shall document the circumstance
4 as an unmet need and may seek a placement in surrounding counties, regions, and
5 the state, in that order.
- 6 (4) If the type of placement that best suits the child's needs is not available within the
7 state, the regional placement coordinator shall contact the commissioner of the
8 department or the commissioner's designee to explore out-of-state placement.
- 9 (5) The department shall develop a diligent recruitment plan and reporting to support
10 the recruitment and retention of family foster homes that are responsive to the needs
11 of children in care, areas of unmet need, and strategies to meet the need. The plan
12 and reporting shall be used as a guide in the establishment and modification of
13 agreements with placements for the care of children in the custody of or committed
14 to the cabinet and shall be made available upon request.

15 ➔Section 7. KRS 199.802 is amended to read as follows:

16 (1) As used in this section:

- 17 (a) "Best interest of the child" means the determination regarding the enrollment
18 of a child made when considering all factors relating to the best interest of a
19 child, as outlined in 20 U.S.C. secs. 6301 et seq., including but not limited to:
- 20 1. The benefits to the child of maintaining educational stability;
 - 21 2. The appropriateness of the current educational setting;
 - 22 3. The child's attachment and meaningful relationships with staff and peers
23 at the current educational setting;
 - 24 4. The influence of the school's climate on the child;
 - 25 5. The safety of the child; and
 - 26 6. The proximity of the placement to the school of origin, and how the
27 length of a commute would impact the child;

- 1 (b) "Child" means any person who has not reached his or her eighteenth birthday,
2 unless otherwise provided, that is in the care of the department;
- 3 (c) "Educational stability" means the maintenance of the enrollment of a child in
4 a particular school upon a transition to a different placement or living
5 arrangement when such maintenance is in the best interest of the child, and if
6 not, the enrollment of the child in a new school in a time and manner that
7 ensures the child experiences a minimal lapse in school attendance; and
- 8 (d) "School of origin" means the public school in which the child was enrolled
9 immediately prior to placement.
- 10 (2) In determining the placement of a child under KRS 199.801, the department shall, if
11 practicable, locate a placement within the same school district where the child was
12 most recently enrolled to allow the child to remain enrolled in the school of origin.
- 13 (3) (a) The department, in consultation with the local education agency, shall make
14 the determination on whether the child shall remain enrolled in the school of
15 origin based on the best interest of the child, weighing the promotion of
16 educational stability as a primary factor.
- 17 (b) In accordance with 20 U.S.C. secs. 6301 et seq., the cost of transportation
18 shall not be a factor in determining the best interest of a child for an
19 enrollment decision.
- 20 (4) If the department finds it is in the best interest of a child to remain in the school of
21 origin upon placement of the child in a new school district, reasonable
22 transportation shall be offered from the location of placement to the school of origin
23 in which the child is enrolled for any regularly scheduled school day. In accordance
24 with 20 U.S.C. secs. 6301 et seq., costs incurred by a school district, foster parent,
25 child-placing agency, or child-caring facility for transportation to the school shall be
26 reimbursed by the department upon request.
- 27 (5) Upon the determination that changing a child's school of enrollment is in the best

1 interest of the child:

2 (a) The department, any applicable child-caring facility, child-placing agency,
 3 school, and local school district, and the child's state agency
 4 caseworker~~[child welfare and local education agencies]~~ shall collaborate to
 5 ensure the immediate and appropriate enrollment of the child;

6 (b) 1. The child's state agency caseworker shall immediately contact the
 7 receiving district to inform the district of the pending enrollment
 8 changes.

9 2. The child's state agency caseworker or child-caring facility or child-
 10 placing agency case manager shall either accompany the child and the
 11 foster parent to the new school to enroll the child or contact applicable
 12 staff at the new school via telephone during the day of enrollment, to
 13 assist with the enrollment, to share information relating to the child's
 14 unique needs and prior experiences that may impact their education,
 15 and to identify and prevent disruptions in any instructional or support
 16 services that the child may have been receiving prior to that time,
 17 including but not limited to medical and behavioral health history and
 18 individual service plans~~[enroll the child];~~

19 (c) In accordance with 20 U.S.C. secs. 6301 et seq., the new school shall
 20 immediately enroll the child, even if the child is unable to produce records
 21 required for enrollment, including but not limited to:

- 22 1. Academic records;
- 23 2. Medical records; and
- 24 3. Proof of residency;

25 (d) The new school shall immediately:

26 1. Directly obtain all records regarding the child that are maintained
 27 within the student information system maintained by the Kentucky

- 1 *Department of Education, in accordance with Section 2 of this Act,*
 2 *and*
 3 2. Request *all other*~~[the]~~ records of the child from the child's previous
 4 school;
- 5 (e) *In accordance with Section 2 of this Act,* the previous school shall provide
 6 the new school *all*~~[-]~~:
- 7 1. ~~Notwithstanding KRS 159.170, all records within the student~~
 8 ~~information system maintained by the Kentucky Department of~~
 9 ~~Education regarding the child within three (3) working days of receipt of~~
 10 ~~a request made under this subsection; and~~
- 11 2. ~~In accordance with KRS 159.170, all remaining]~~ records regarding the
 12 child within ten (10) working days of receipt of a request made under
 13 this subsection;
- 14 (f) *In accordance with 20 U.S.C. sec. 1232g,* the department responsible for the
 15 child, *and the child's state agency caseworker, or child-caring facility or*
 16 *child-placing agency case manager* shall be granted access to all educational
 17 records *on a confidential basis* in order to facilitate the proper transfer,
 18 *enrollment, and educational placement* of the child;
- 19 (g) In accordance with KRS 158.140(1), promotions or credits earned in
 20 attendance in any approved public school shall be accepted as valid at the new
 21 school;~~[-and]~~
- 22 (h) The department, *child-caring facilities, child-placing agencies, child's state*
 23 *agency caseworkers, school districts*~~[each local education agency]~~, and foster
 24 parents shall *each* collaborate *with one another* to ensure the educational
 25 stability of each child, *and to assist one another with meeting the*
 26 *educational needs of each child in furtherance of the rights enumerated in*
 27 *KRS 620.363; and*

- 1 (i) 1. The department, child-caring facilities, child-placing agencies, and a
2 child's state agency caseworker, may share information regarding a
3 child and facts learned about a child and his or her unique needs and
4 prior experiences, as necessary, with staff of the new school district in
5 which the child is enrolling in order to identify and serve the
6 educational needs of the child.
- 7 2. All information regarding a child or facts learned about a child by the
8 department, any child-caring facility, child-placing agency licensed by
9 the cabinet, or a child's state agency caseworker, and shared with staff
10 of a school district pursuant to this section, shall be deemed
11 confidential in the same manner and subject to the same provisions as
12 similar records of the cabinet. The information thus obtained shall not
13 be published or be open for public inspection, except to authorized
14 employees of the school district in performance of their duties and to
15 identify and serve the educational needs of the child.
- 16 (6) The school district in which the child is enrolled upon his or her successful
17 completion of all high school graduation requirements shall issue a diploma
18 indicating graduation from high school to the child.