

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. KRS 26A.140 is amended to read as follows:

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

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

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

15 (c) Children expected to testify shall be prepared for the courtroom experience by
16 the Commonwealth's or county attorney handling the case with the assistance
17 of the guardian ad litem or special advocate.

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

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

23 **(3) A guardian ad litem appointed pursuant to subsection (1) of this section shall be**
24 **paid a fee not to exceed five hundred dollars (\$500) for his or her services, to be**
25 **paid by the Finance and Administration Cabinet.**

26 ➔Section 2. KRS 49.120 is amended to read as follows:

27 (1) All claims must be filed with the commission within one (1) year from the time the

1 claim for relief accrued.

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

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

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

15 (5) If at the time the alleged negligent act or omission occurred or if at the time the
16 claim for relief accrued or thereafter, the claimant is an infant or of unsound mind
17 or under any other legal disability to file suit, a guardian or next friend or committee
18 or other qualified representative shall bring such action in the commission on behalf
19 of such person within the same time limitation set forth herein or the claim is
20 barred, notwithstanding KRS 413.170 and 413.280. If there is no guardian or
21 committee or he is unwilling or unable to act or is himself a claimant, the
22 commission shall appoint a guardian ad litem to represent the interests of the
23 claimant under legal disability. The commission shall ~~pay~~^{allow} the guardian ad
24 litem a ~~reasonable~~ fee **not to exceed five hundred dollars (\$500)** for his **or her**
25 services, to be taxed as costs.

26 ➔Section 3. KRS 91.550 is amended to read as follows:

27 (1) The personal property of infants or persons judicially found to be of unsound mind

1 shall not be distrained for taxes assessed on their real property.

2 (2) (a) The real property of an infant or person judicially found to be of unsound
3 mind shall not, during his disability, after ascertainment of such disability by
4 the city, be sold without the appointment of a guardian ad litem to represent
5 the interest of such person, for less than its certified assessed value on any
6 judgment of sale rendered for taxes and costs alone, where the real property
7 came to the infant or person of unsound mind by descent, distribution or
8 devise, or by gift or settlement of some person then deceased, or where the
9 real property belonged to the person of unsound mind before he became of
10 unsound mind.

11 (b) A guardian ad litem appointed pursuant to this subsection shall be paid by
12 the plaintiff a fee not to exceed five hundred dollars (\$500) for his or her
13 services, to be taxed as costs.

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

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

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

- 1 (a) The parent or parents have been adjudged mentally disabled and the judgment
2 shall have been in effect for not less than one (1) year prior to the filing of the
3 petition for adoption;
- 4 (b) The parental rights of the parents have been terminated under KRS Chapter
5 625;
- 6 (c) The living parents are divorced and the parental rights of one (1) parent have
7 been terminated under KRS Chapter 625 and consent has been given by the
8 parent having custody and control of the child; or
- 9 (d) The biological parent has not established parental rights as required by KRS
10 625.065.
- 11 (2) A minor parent who is a party defendant may consent to an adoption but a guardian
12 ad litem for the parent shall be appointed. **A guardian ad litem appointed pursuant**
13 **to this subsection shall be paid by the petitioner a fee not to exceed five hundred**
14 **dollars (\$500) for his or her services, to be taxed as costs.**
- 15 (3) In the case of a child twelve (12) years of age or older, the consent of the child shall
16 be given in court. The court in its discretion may waive this requirement.
- 17 (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be
18 granted without the consent of the biological living parents of a child if it is pleaded
19 and proved as a part of the adoption proceedings that any of the provisions of KRS
20 625.090 exist with respect to the child.
- 21 (5) An adoption shall not be granted or a consent for adoption be held valid if the
22 consent for adoption is given prior to seventy-two (72) hours after the birth of the
23 child. A voluntary and informed consent may be taken at seventy-two (72) hours
24 after the birth of the child and shall become final and irrevocable seventy-two (72)
25 hours after it is signed.

26 ➔Section 5. KRS 202A.121 is amended to read as follows:

27 **(1)** Upon the appearance of the person detained pursuant to KRS 202A.041 or upon the

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

8 **(2) A private attorney appointed pursuant to this section shall be paid a fee not to**
 9 **exceed five hundred dollars (\$500) for his or her services. The fee shall be paid by**
 10 **the respondent and taxed as costs. However, if the court determines that the**
 11 **respondent is indigent under KRS Chapter 31, the fee shall be paid by the county.**

12 ➔Section 6. KRS 202B.210 is amended to read as follows:

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

25 **(2) Private counsel appointed pursuant to subsection (1) of this section shall be paid**
 26 **a fee not to exceed five hundred dollars (\$500) for his or her services, to be paid**
 27 **by the Finance and Administration Cabinet.**

1 ➔Section 7. KRS 202B.250 is amended to read as follows:

- 2 (1) No less than once in every five (5) years following the initial order for involuntary
3 admission of a resident to an ICF/ID, or an order authorizing continued care and
4 treatment following review pursuant to this section, the court shall hold a hearing to
5 review the status of the resident and necessity for continued care and treatment in
6 the ICF/ID. Notice at least twenty (20) days in advance of the hearing shall be
7 provided by the court to the ICF/ID, county attorney, guardian or limited guardian
8 of the resident, if any, or, if none, an immediate family member as listed on the last
9 interdisciplinary report filed by the ICF/ID. The court shall appoint an attorney to
10 represent the resident at the review hearing, *who shall be paid by the Finance and*
11 *Administration Cabinet a fee not to exceed five hundred dollars (\$500) for his or*
12 *her services.*
- 13 (2) The review hearing may be informal and held in open court, in chambers, or at the
14 ICF/ID. The hearing shall be held without a jury and the resident shall be entitled to
15 present documentary evidence and witnesses and cross-examine witnesses against
16 the resident.
- 17 (3) At the conclusion of the review hearing, the court shall make written findings of
18 fact concerning whether the criteria for involuntary admission set forth in KRS
19 202B.040 continue to be satisfied based upon clear and convincing evidence. If the
20 court finds that the involuntary admission criteria continue to be satisfied, the court
21 shall enter an order authorizing the continued care and treatment of the resident at
22 the ICF/ID and shall establish the period within which the next review shall be held.
23 Otherwise, the court shall enter an order requiring the resident to be discharged
24 from the ICF/ID.
- 25 (4) If at any point during the resident's placement at an ICF/ID it appears that the
26 resident no longer meets the criteria for involuntary admission set forth in KRS
27 202B.040, the resident, the resident's parent, guardian or limited guardian,

1 immediate family member, or attorney may request a review pursuant to this
2 section.

3 ➔Section 8. 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 ~~(\$300)~~ (\$500). This fee is not to be paid to attorneys
22 employed by government funded legal services programs.

23 ➔Section 9. KRS 311.732 is amended to read as follows:

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

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

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

1 parents; and

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

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

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

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

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

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

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

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

25 (c) The minor may participate in proceedings in the court on her own behalf or
26 through her next friend and the court shall appoint a guardian ad litem for her,
27 **who shall be paid by the Finance and Administration Cabinet a fee not to**

1 exceed five hundred dollars (\$500) for his or her services. The court shall
2 advise her that she has a right to court-appointed counsel and shall provide her
3 with such counsel upon her request, who shall be paid by the Finance and
4 Administration Cabinet a fee not to exceed five hundred dollars (\$500) for
5 his or her services;

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

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

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

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

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

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

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

- 1 (6) No fees shall be required of any minor who declares she has no sufficient funds to
2 pursue the procedures provided by this section.
- 3 (7) The Supreme Court is respectfully requested to promulgate any rules and
4 regulations it feels are necessary to ensure that proceedings under this section are
5 handled in an expeditious and anonymous manner.
- 6 (8) The requirements of subsections (2), (3), and (4) of this section shall not apply
7 when, in the best medical judgment of the physician based on the facts of the case
8 before him, a medical emergency exists that so complicates the pregnancy as to
9 require an immediate abortion. A physician who does not comply with subsection
10 (2), (3), or (4) of this section due to the utilization of this exception shall certify in
11 writing the medical indications upon which his judgment was based.
- 12 (9) A report indicating the basis for any medical judgment that warrants failure to
13 obtain consent pursuant to this section shall be filed with the Cabinet for Health and
14 Family Services on a form supplied by the cabinet. This report shall be confidential.
- 15 (10) Failure to obtain consent pursuant to the requirements of this section is prima facie
16 evidence of failure to obtain informed consent and of interference with family
17 relations in appropriate civil actions. The law of this state shall not be construed to
18 preclude the award of exemplary damages in any appropriate civil action relevant to
19 violations of this section. Nothing in this section shall be construed to limit the
20 common-law rights of parents.
- 21 ➔Section 10. KRS 353.230 is amended to read as follows:
- 22 (1) Upon the execution of such a consolidation agreement, the trustee shall file with the
23 clerk of the Circuit Court in the county in which the land covered by the lease to be
24 consolidated hereunder, or the greater portion thereof, lies a petition for an order
25 approving such consolidation agreement setting forth a copy of the consolidation
26 agreement and a statement of facts constituting the grounds relied upon to secure
27 the approval of such agreement, and shall submit with the petition the affidavits of

1 not less than three (3) disinterested owners of real estate in the county wherein the
 2 proceedings hereunder are brought, as to whether such agreement will be
 3 advantageous or beneficial to the beneficiaries for whom such trustee is acting,
 4 which affidavits shall be filed and preserved as records of the Circuit Court.

5 (2) No agreement permitted by KRS 353.210 to 353.230 shall be valid or effective until
 6 the judge of said court appoints a guardian ad litem to represent the beneficiaries for
 7 whom such trustee is acting and whose interests are sought to be consolidated
 8 hereunder. The guardian ad litem shall file an answer and the affidavits of at least
 9 three (3) witnesses, proving the advantages or disadvantages of such agreement, and
 10 shall make such recommendation to the judge relating to the agreement as he or she
 11 believes to be most beneficial to the persons on whose behalf he or she is acting. A
 12 guardian ad litem appointed pursuant to this subsection shall be paid by the
 13 trustee a fee not to exceed five hundred dollars (\$500) for his or her services, to
 14 be ~~He shall receive for his services a reasonable compensation, to be allowed by the~~
 15 ~~judge and~~ taxed as costs.

16 (3) The judge shall proceed in a summary manner to approve or disapprove the
 17 consolidation agreement, and if he or she approves it he or she shall endorse his or
 18 her approval thereon. The order of the judge approving such agreement shall be
 19 entered on the civil order book of the circuit clerk's office of the county in which the
 20 proceedings hereunder are brought.

21 ➔Section 11. KRS 353.260 is amended to read as follows:

22 (1) Upon the execution of such a consolidation agreement, the guardian shall file with
 23 the clerk of the Circuit Court in the county in which the land covered by the lease to
 24 be consolidated hereunder, or the greater portion thereof, lies a petition for an order
 25 approving such consolidation agreement setting forth a copy of the consolidation
 26 agreement and a statement of facts constituting the grounds relied upon to secure
 27 the approval of such agreement, and shall submit with the petition the affidavits of

1 not less than three (3) disinterested owners of real estate in the county wherein the
 2 proceedings hereunder are brought, as to whether such agreement will be
 3 advantageous or beneficial to the minor or minors for whom such guardian is
 4 acting, which affidavits shall be filed and preserved as records of the Circuit Court.

5 (2) No agreement permitted by KRS 353.240 to 353.260 shall be valid or effective until
 6 the judge of said court appoints a guardian ad litem to represent the minor or minors
 7 whose interests are sought to be consolidated hereunder. The guardian ad litem shall
 8 file an answer and the affidavits of at least three (3) witnesses, proving the
 9 advantages or disadvantages of such agreement, and shall make such
 10 recommendation to the judge relating to the agreement as he or she believes to be
 11 most beneficial to the persons on whose behalf he or she is acting. *A guardian ad*
 12 *litem appointed pursuant to this subsection shall be paid by the guardian a fee*
 13 *not to exceed five hundred dollars (\$500) for his or her services, to be* ~~He shall~~
 14 ~~receive for his services a reasonable compensation, to be allowed by the judge and~~
 15 taxed as costs.

16 (3) The judge shall proceed in a summary manner to approve or disapprove the
 17 consolidation agreement, and if he or she approves it he or she shall endorse his or
 18 her approval thereon. The order of the judge approving such agreement shall be
 19 entered on the civil order book of the circuit clerk's office of the county in which the
 20 proceedings hereunder are brought.

21 ➔Section 12. KRS 353.330 is amended to read as follows:

22 (1) All of the persons in being who have any present or contingent interest in the lands
 23 or estate or interest sought to be leased shall be made parties to the proceedings
 24 authorized in KRS 353.300 to 353.380, with any infant or infants being represented
 25 either by next friend or statutory guardian or guardian ad litem, or in the case of
 26 constructive service of summons by a warning order attorney appointed as in other
 27 cases. *A guardian ad litem appointed pursuant to this subsection shall be paid by*

1 *the estate a fee not to exceed five hundred dollars (\$500) for his or her services, to*
2 *be taxed as costs.*

3 **(2)** Any person adjudged mentally disabled shall be represented by his guardian or
4 conservator or by guardian ad litem, or, in the case of constructive service of
5 summons as in civil actions generally, by a warning order attorney appointed as in
6 other cases. *A guardian ad litem appointed pursuant to this subsection shall be*
7 *paid by the estate a fee not to exceed five hundred dollars (\$500) for his or her*
8 *services, to be taxed as costs.*

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

24 ➔Section 13. KRS 386B.3-050 is amended to read as follows:

25 (1) If the court determines that an interest is not represented under this subchapter, or
26 that the otherwise available representation might be inadequate because of conflict
27 or otherwise, the court may appoint a guardian ad litem to receive notice, give

1 consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated,
2 or unborn individual, or a person whose identity or location is unknown. A guardian
3 ad litem may be appointed to represent several persons or interests.

4 (2) A guardian ad litem may act on behalf of the individual represented with respect to
5 any matter arising under this chapter, whether or not a judicial proceeding
6 concerning the trust is pending.

7 (3) In making decisions, a guardian ad litem may consider general benefit accruing to
8 the living members of the individual's family.

9 **(4) A guardian ad litem appointed pursuant to this section shall be paid by the trust a**
10 **fee not to exceed five hundred dollars (\$500) for his or her services, to be taxed as**
11 **costs.**

12 ➔Section 14. KRS 387.125 is amended to read as follows:

13 (1) A guardian shall apply the income or principal of the ward's estate to the payment of
14 debts, taxes, claims, charges, and expenses of the guardianship and, in accordance
15 with KRS 387.065, for the support, care, and education of the ward or the ward's
16 dependents.

17 (2) A guardian shall take possession of all of the ward's real and personal property.

18 (3) A guardian may sell any of the ward's personal property without District Court
19 authorization or confirmation. To sell any of the ward's real property, a guardian
20 shall comply with the provisions of KRS Chapter 389A.

21 (4) A guardian shall invest any of the ward's money or property which is not required
22 for the ward's current support, care and education. The investments made of a
23 ward's funds shall be investments authorized by KRS 386.020.

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

26 (6) A guardian may institute or defend actions, claims, or proceedings in any
27 jurisdiction for the protection of the ward's estate. Subject to the approval of the

1 court in which the action, claim, or proceeding has been filed, a guardian may settle
 2 or compromise the action, claim, or proceeding on behalf of the ward. If the action,
 3 claim, or proceeding has not been filed in any court, the District Court of the county
 4 where a guardian qualified shall approve the settlement or compromise. Upon
 5 approval of a settlement or compromise, a guardian may execute a release on behalf
 6 of the ward. A guardian shall receive any proceeds from a settlement for
 7 management in accordance with the provisions of this statute.

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

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

13 ~~1. (a)~~ Any lease of mineral rights;

14 ~~2. (b)~~ Any lease of oil and gas rights;

15 ~~3. (c)~~ Any sale of timber owned by the ward; or

16 ~~4. (d)~~ Any consolidation agreement, as defined by KRS 353.220.

17 To aid it in making the decision on a proposed sale, lease, or consolidation
 18 agreement, the court shall appoint a guardian ad litem for the ward. The
 19 guardian ad litem shall report to the court on the suitability of the transaction.

20 **(b) A guardian ad litem appointed pursuant to this subsection shall be paid by**
 21 **the ward's estate a fee not to exceed five hundred dollars (\$500) for his or**
 22 **her services, to be taxed as costs.**

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

24 ➔Section 15. KRS 387.305 is amended to read as follows:

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

1 clerk, showing that the defendant has no guardian, curator, nor conservator, residing
2 in this state, known to the affiant.

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

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

15 (4) ~~A[The court shall allow to the]~~ guardian ad litem **appointed pursuant to this**
16 **section shall be paid** a reasonable fee for his **or her** services, to be paid by the
17 **respondent**~~[plaintiff]~~ and taxed ~~as~~~~[in the]~~ costs. **However, if the court determines**
18 **that the respondent is indigent under KRS Chapter 31, the fee shall not exceed**
19 **five hundred dollars (\$500) and shall be paid by the county.** The affidavit of such
20 guardian, or of another person, or other competent evidence, is admissible to prove
21 the services rendered, but not to prove their value. The court must decide
22 concerning such value, without reference to the opinions of parties or other
23 witnesses.

24 (5) Whether appointed pursuant to this statute or pursuant to a provision of the
25 Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to
26 advocate for the client's best interest in the proceeding through which the guardian
27 ad litem was appointed. Without an appointment, the guardian ad litem shall have

1 no obligation to initiate action or to defend the client in other proceedings.

2 ➔Section 16. KRS 387.560 is amended to read as follows:

- 3 (1) Unless an appearance has been entered on behalf of the respondent, the court shall
4 appoint counsel for the respondent within one (1) week of the filing of a petition for
5 determination of disability under KRS 387.500 to 387.770.
- 6 (2) Appointed counsel shall be *paid a reasonable fee for his or her services, to be paid*
7 *by the respondent and taxed as costs. However, if the court determines that the*
8 *respondent is indigent under KRS Chapter 31, the fee shall not exceed five*
9 *hundred dollars (\$500) and shall be paid by the county,*~~entitled to compensation~~
10 ~~for services. If counsel is appointed for a poor person as defined in KRS 453.190,~~
11 ~~the court shall prescribe reasonable compensation to be paid by the county in which~~
12 ~~the proceeding is held in accordance with the complexity of the issues, the time~~
13 ~~involved, and other relevant considerations, except that appointed counsel shall not~~
14 ~~be compensated at a rate higher than sixty dollars (\$60) an hour for time spent in~~
15 ~~court and no higher than forty dollars (\$40) an hour for time spent out of court.] If~~
16 the petition is found to be frivolous or not brought in good faith, counsel fees shall
17 be charged to the petitioner.
- 18 (3) In all proceedings under KRS 387.500 to 387.770, it shall be the duty of the county
19 attorney to assist the petitioner, to represent the interest of the Commonwealth, and
20 to assist the court in its inquiry by the presentation of evidence.

21 ➔Section 17. KRS 387.880 is amended to read as follows:

22 The petition shall be docketed with the court and set for hearing unless the court shall
23 otherwise determine. Notice of the hearing shall be given to each interested party not less
24 than fourteen (14) days in advance, in accordance with KRS 386B.1-070, unless waived
25 in writing. The court may assign a guardian ad litem to advise the court with respect to
26 the suitability of the special needs trust. *A guardian ad litem assigned pursuant to this*
27 *section shall be paid by the petitioner a fee not to exceed five hundred dollars (\$500)*

1 *for his or her services, to be taxed as costs.*

2 →Section 18. KRS 388.250 is amended to read as follows:

3 Notwithstanding the provisions of existing law for adjudication of mental disability and
4 appointment of a guardian or conservator upon the inquest of a jury, where a petition is
5 filed for the appointment of a guardian or conservator for a mentally disabled beneficiary
6 of the Veterans Affairs under the provisions of this chapter, who is found within this
7 state, whether or not a resident thereof, a certificate of the administrator of Veterans
8 Affairs or his duly authorized representative, accompanying such petition setting forth the
9 fact that such beneficiary has been rated incompetent by the Veterans Affairs on
10 examination in accordance with the laws and regulations governing such Veterans
11 Affairs, and that the appointment of a guardian or conservator is a condition precedent to
12 the payment of any moneys due each beneficiary by the Veterans Affairs, shall be prima
13 facie evidence of the necessity for such appointment. Provided, however, that some
14 member of the bar shall be appointed by the court to represent and protect the interests
15 and rights of such mentally disabled beneficiary as provided under existing law, and
16 further that the right of any such mentally disabled beneficiary or any person interested in
17 such beneficiary to demand a trial by jury shall not be denied. *An attorney appointed*
18 *pursuant to this section shall be paid a fee not to exceed five hundred dollars (\$500) for*
19 *his or her services. The fee shall be paid by the beneficiary and taxed as costs.*
20 *However, if the court determines that the beneficiary is indigent under KRS Chapter*
21 *31, the fee shall be paid by the county.*

22 →Section 19. KRS 389A.030 is amended to read as follows:

23 (1) When two (2) or more persons other than tenants by the entirety in residential
24 property actually occupied by them as a principal residence share title to real estate
25 in such manner that a conveyance by them jointly would pass a fee simple title, any
26 one (1) or more of them may bring an action for the sale or division thereof in the
27 Circuit Court of the county in which the land, or the greater part thereof, lies,

1 making parties defendant those owners who have not joined as plaintiffs. A
2 fiduciary possessing a power of sale may institute such an action against owners of
3 interests not represented by him. Defendant owners shall be brought before the
4 court in the manner provided by the civil rules whether or not a fiduciary possesses
5 a power of sale of the defendant's interest, but any fiduciary possessing such a
6 power shall also be made a defendant. The case shall be tried without a jury.

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

12 (b) A guardian ad litem appointed pursuant to this subsection shall be paid by
13 the plaintiff a fee not to exceed five hundred dollars (\$500) for his or her
14 services, to be taxed as costs.

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

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

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

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

14 ➔Section 20. KRS 392.140 is amended to read as follows:

15 Whenever a married person has become a confirmed mentally disabled person, the Circuit
16 Court of the county in which is situated land belonging to the spouse of such disabled
17 person may, upon the petition of the spouse of the mentally disabled person, adjudge the
18 sale and conveyance, or the mortgage, of the inchoate right of dower or curtesy of the
19 person under disability. The mentally disabled person and his or her guardian or
20 conservator, if he or she has one, shall be made defendants to the action; if he or she has
21 no guardian or conservator, the court shall appoint an attorney to defend for him or her,
22 who~~[to whom the court]~~ shall~~[make a reasonable allowance to]~~ be paid by the spouse of
23 the mentally disabled person *a fee not to exceed five hundred dollars (\$500) for his or*
24 *her services, to be taxed as costs*. A description of the land shall be given in the petition
25 and the evidence of title of the spouse of the mentally disabled person filed therewith. If
26 the court is satisfied by the proof that the mentally disabled spouse is a confirmed
27 mentally disabled person, it may adjudge the sale and conveyance, or mortgage, of her

1 inchoate right of dower or his inchoate right to curtesy in said land, and if the mentally
2 disabled spouse has a guardian or conservator, the court may direct that he or she unite
3 with the spouse of the mentally disabled person in the deed or mortgage; if the mentally
4 disabled spouse has no guardian or conservator, the court shall appoint a commissioner
5 who shall unite with the spouse of the mentally disabled person in the deed or mortgage.
6 Before any judgment pursuant to this section shall be rendered, the spouse of the mentally
7 disabled person, with at least two (2) good sureties, shall execute before the court a
8 covenant to the Commonwealth for the benefit of the mentally disabled spouse, to be
9 approved by the court, that the mentally disabled spouse will be paid the value of his right
10 of dower or curtesy in the land should such right thereafter become complete.

11 →Section 21. KRS 394.190 is amended to read as follows:

12 Any person interested in such probate may be summoned, or proceeded against by
13 warning order, and if an infant or mentally disabled person, a guardian ad litem shall be
14 appointed. A guardian ad litem appointed pursuant to this section shall be paid by the
15 estate a fee not to exceed five hundred dollars (\$500) for his or her services, to be taxed
16 as costs.

17 →Section 22. KRS 403.100 is amended to read as follows:

18 In any court proceeding conducted pursuant to KRS 403.010 to 403.350, if the respondent
19 is incarcerated for a conviction pursuant to KRS Chapter 507, 508, 509, or 510, where the
20 petitioner is the victim, the guardian ad litem shall be paid by the Finance and
21 Administration Cabinet a fee not to exceed five hundred dollars (\$500) for his or her
22 services.

23 →SECTION 23. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED
24 TO READ AS FOLLOWS:

25 (1) Upon the filing of a petition for an order of protection, the court shall appoint an
26 attorney to represent any respondent who is a minor or an adult who is
27 incarcerated. The representation shall continue unless the respondent retains

1 private counsel.

2 (2) An attorney appointed pursuant to subsection (1) of this section shall be paid a
3 fee not to exceed five hundred dollars (\$500) for his or her services. If the petition
4 is granted, the fee shall be paid by the Finance and Administration Cabinet. If
5 the petition is not granted, the fee shall be paid by the petitioner.

6 ➔Section 24. KRS 422.180 is amended to read as follows:

7 (1) The party desiring to take the deposition of any witness shall give ten (10) days'
8 notice in writing to all parties known to him to be interested in, or setting up or
9 attempting to set up claim to, the real property or any interest therein. The notice
10 shall state the time and place the depositions will be commenced to be taken, and
11 that the same will be continued from day to day, at the same place and between the
12 hours of 8 a.m. and 6 p.m., until the same is completed and that depositions are to
13 be taken in behalf of the title to a certain tract of land known as tract, lying on
14 the (here give the local description), in County, in the State of Kentucky, and
15 that the depositions are being taken for the purpose of perpetuation of the testimony
16 expected to be given. The party desiring to take the deposition shall give further
17 notice, as above recited, by having the notice published pursuant to KRS Chapter
18 424. Such party shall also have a like notice posted at the front door of the
19 courthouse in the county where the real property lies at least fifteen (15) days before
20 the taking of the depositions. Sixty (60) days' notice shall be given to nonresidents
21 of the time of taking of such depositions unless they waive notice through their
22 attorney or otherwise.

23 (2) The guardian ad litem for an infant and the attorney for a nonresident shall, as soon
24 as notified of his appointment, if possible, give written notice to the infant or
25 nonresident whom he represents of the fact and nature and purpose of the
26 proceeding, and if no person, other than himself, appears by special employment to
27 represent those whom he was appointed to represent, he shall appear and, if

1 necessary, cross-examine and do all necessary to protect the interest of his ward or
 2 nonresident claimant against any fraud, imposition or injury. Such guardian ad litem
 3 or attorney shall file with the clerk a written report showing what effort he made to
 4 give notice to his ward or nonresident party, and state what, if any, information he
 5 has received from them, and shall be ~~allowed a reasonable sum for his services to~~
 6 ~~be~~ paid by the party seeking to perpetuate the evidence **a fee not to exceed five**
 7 **hundred dollars (\$500) for his or her services, to be taxed as costs.**

8 ➔Section 25. KRS 456.030 is amended to read as follows:

- 9 (1) A petition for an interpersonal protective order may be filed by:
- 10 (a) A victim of dating violence and abuse;
- 11 (b) A victim of stalking;
- 12 (c) A victim of sexual assault; or
- 13 (d) An adult on behalf of a victim who is a minor otherwise qualifying for relief
 14 under this subsection.
- 15 (2) The petition may be filed in the victim's county of residence or a county where the
 16 victim has fled to escape dating violence and abuse, stalking, or sexual assault.
- 17 (3) The petition shall be verified and contain:
- 18 (a) The name, age, address, occupation, residence, and school or postsecondary
 19 institution of the petitioner;
- 20 (b) The name, age, address, occupation, residence, and school or postsecondary
 21 institution of the person or persons who have engaged in the alleged act or
 22 acts complained of in the petition;
- 23 (c) The facts and circumstances which constitute the basis for the petition; and
- 24 (d) The names, ages, and addresses of the petitioner's minor children, if
 25 applicable.
- 26 (4) The petition shall be filed on forms prescribed by the Administrative Office of the
 27 Courts and provided to the person seeking relief by the circuit clerk or by another

1 individual authorized by the court to provide and verify petitions in emergency
2 situations, such as law enforcement officers, Commonwealth's or county attorneys,
3 and regional rape crisis centers or domestic violence shelters.

4 (5) All petitions requested, completed, and signed by persons seeking protection under
5 this chapter shall be accepted and filed with the court.

6 (6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between
7 the District Court and Circuit Court.

8 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access
9 to interpersonal protective orders in each county with any protocol, whether
10 statewide or local, being subject to Supreme Court review and approval of the
11 initial protocol and any subsequent amendments. This protocol may allow for
12 petitions to be filed in or transferred to a court other than those specified in
13 paragraph (a) of this subsection.

14 (c) The Court of Justice may authorize by rule that petitions in a specific county
15 be filed in accordance with a supplemental jurisdictional protocol adopted for
16 that county. This protocol may provide for petitions to be filed in or
17 transferred to a court other than those specified in paragraph (a) of this
18 subsection.

19 (d) 1. In addition to the protocols for twenty-four (24) hour access established
20 under paragraphs (b) and (c) of this subsection, before January 1, 2019,
21 the Court of Justice shall provide protocols for filing, including
22 electronic filing, of petitions for orders of protection at those regional
23 rape crisis centers designated under KRS 211.600, or regional domestic
24 violence shelters designated under KRS 209A.045, that elect to
25 participate in any county's twenty-four (24) hour access protocol.

26 2. These protocols shall be subject to Supreme Court review for approval
27 of the initial protocol and any subsequent amendments.

1 (7) (a) Upon the filing of the petition, the court shall appoint an attorney to
 2 represent any respondent who is a minor or an adult who is incarcerated.
 3 The representation shall continue unless the respondent retains private
 4 counsel.

5 (b) An attorney appointed pursuant to paragraph (a) of this subsection shall be
 6 paid a fee not to exceed five hundred dollars (\$500) for his or her services.
 7 If the petition is granted, the fee shall be paid by the Finance and
 8 Administration Cabinet. If the petition is not granted, the fee shall be paid
 9 by the petitioner.

10 (8) Any judge to whom a petition is referred under subsection (6) of this section shall
 11 have full authority to review and hear a petition and subsequently grant and enforce
 12 an interpersonal protective order.

13 (9)~~(8)~~ If the judge of a court in which there is a pending request for modification or
 14 enforcement of an existing order of protection is unavailable or unable to act within
 15 a reasonable time, the proceedings may be conducted by any judge of the county in
 16 accordance with court rules.

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

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

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

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

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

1 the Finance and Administration Cabinet. The fee to be fixed by the court shall
2 not exceed five hundred dollars (\$500)~~]; however, if the action has final~~
3 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~
4 ~~dollars (\$250)]; and~~

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

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

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

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

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

26 ➔Section 27. KRS 625.0405 is amended to read as follows:

27 (1) A parent desiring the termination of his or her parental rights and a transfer of the

1 parental rights to a person, persons, the cabinet, or a child-placing agency licensed
2 by the cabinet for the purpose of adoption may prior to or upon the filing of the
3 petition request the Circuit Court to appoint an attorney to represent the parent and
4 provide legal representation in the termination action. If the court determines
5 pursuant to KRS Chapter 31 that the requesting parent is indigent, the court shall
6 appoint an attorney (within forty-eight (48) hours) to represent the indigent parent.
7 The attorney for the indigent parent shall receive a fee to be fixed by the court, not
8 to exceed five hundred dollars (\$500) and assessed as costs, and the court may order
9 the costs to be paid by the proposed adoptive parent, parents, or agency before the
10 entry of a judgment of termination, except the attorney's fee shall be paid by the
11 Finance and Administration Cabinet if termination is not granted, or if custody of
12 the child is placed with the cabinet. **The appointment of an attorney pursuant to**
13 **this subsection shall solely be for representation at the trial level and shall not**
14 **extend to the filing of an appeal nor to the appeal process thereafter.**

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

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

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

27 ➔Section 28. KRS 625.041 is amended to read as follows:

- 1 (1) The parties to an action for voluntary termination of parental rights shall be the
2 parent seeking termination, whose presence is not required if represented by counsel
3 for the parent when an appearance-waiver and consent-to-adopt form is filed with
4 the court, but the court shall appoint a guardian ad litem to represent the best
5 interest of the child.
- 6 (2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five
7 hundred dollars (\$500), to be paid by the petitioner, except if the Cabinet for Health
8 and Family Services receives custody of the child, the guardian ad litem shall be
9 paid by the Finance and Administration Cabinet. **The appointment of a guardian**
10 **ad litem pursuant to this subsection shall solely be for representation at the trial**
11 **level and shall not extend to the filing of an appeal nor to the appeal process**
12 **thereafter.**
- 13 (3) The parent may sign an appearance-waiver and consent-to-adopt form when the
14 parent chooses not to attend a voluntary termination of parental rights proceedings.
15 This form, prescribed by the Administrative Office of the Courts, shall:
- 16 (a) Contain a statement of acknowledgment and agreement, regarding the
17 appearance at the proceeding, signed by the parent, counsel for the parent, and
18 the cabinet. If the parent is a minor, the form shall also be signed by the
19 guardian of the minor parent;
- 20 (b) Contain the parent's notarized signature;
- 21 (c) Contain any address to which the parent requests the final judgment be served.
- 22 (4) If a joint petition is filed, counsel shall be designated as attorney for both parties.
- 23 ➔Section 29. KRS 625.080 is amended to read as follows:
- 24 In any involuntary action for termination of parental rights:
- 25 (1) The Circuit Court shall conduct a private hearing. An official stenographic or
26 mechanical record shall be made of the proceedings and retained for a period of five
27 (5) years. The court shall make findings of fact and conclusions of law, which may

1 be made on the record, to support its judgment;

2 (2) Any child to whom an involuntary action directly relates shall be made a party to
3 the action and a guardian ad litem shall be appointed to represent the best interests
4 of the child. The ~~person appointed as a~~ guardian ad litem shall be paid a fee not to
5 exceed five hundred dollars (\$500), to be paid by the Finance and Administration
6 Cabinet when the cabinet is the proposed custodian. When the cabinet is not the
7 proposed custodian, fees shall~~the court may order the cost to~~ be paid by the
8 proposed adoptive parent, parents, agency, or the petitioner. *The appointment of a*
9 *guardian ad litem pursuant to this subsection shall solely be for representation at*
10 *the trial level and shall not extend to the filing of an appeal nor to the appeal*
11 *process thereafter;*~~;~~

12 (3) Upon motion of any party, the child may be permitted to be present during the
13 proceedings and to testify if the court finds such to be in the best interests of the
14 child. In its discretion, the Circuit Court may interview the child in private, but a
15 record of the interview shall be made, which, in the discretion of the court, may be
16 sealed to be used only by an appellate court;

17 ~~(4)~~~~(3)~~ The parents have the right to legal representation in involuntary termination
18 actions. The Circuit Court shall determine if the parent is indigent and, therefore,
19 entitled to counsel pursuant to KRS Chapter 31. If the Circuit Court so finds, the
20 Circuit Court shall inform the parent; and, upon request, if it appears reasonably
21 necessary in the interest of justice, the Circuit Court shall appoint an attorney to
22 represent the parent pursuant to KRS Chapter 31 to be ~~provided or~~ paid for by the
23 Finance and Administration Cabinet a fee to be set by the court and not to exceed
24 five hundred dollars (\$500). *The appointment of an attorney pursuant to this*
25 *subsection shall solely be for representation at the trial level and shall not extend*
26 *to the filing of an appeal nor to the appeal process thereafter;*

27 ~~(5)~~~~(4)~~ If the parent is currently authorized to visit with the child, the court may

1 continue to permit the parent to visit the child pending the final hearing unless it
2 finds that visitation would not be in the best interest of the child; ~~and~~[-]

3 ~~(6)~~[(5)] The hearing under this chapter shall be held within sixty (60) days of the
4 motion by a party or the guardian ad litem for a trial date.

5 ➔Section 30. KRS 31.215 is amended to read as follows:

6 (1) ~~Except for attorneys appointed pursuant to KRS 620.100, 625.041, 625.080, and~~
7 ~~31.120,]~~No attorney **representing a needy person under any provision of this**
8 **chapter**~~[participating in a public advocacy plan]~~ shall accept any fees~~[for the~~
9 ~~representation of any needy person as defined in this chapter]~~ from that person or
10 anyone for his benefit **during the course of representation or for representation in**
11 **any proceeding or action directly relating to a matter for which representation**
12 **under**~~[and the fees for representation of that person shall be limited to the fees~~
13 ~~provided in]~~ this chapter **is provided**. "Fees" shall include cash, property, or other
14 pecuniary benefits of any kind.

15 (2) Any attorney **representing a needy person under any provision of this chapter**
16 ~~[participating in a public advocacy plan]~~ who receives or attempts to collect a fee
17 ~~[from a needy person]~~ as prohibited by subsection (1) above shall be guilty of a
18 Class D felony.

19 ➔Section 31. KRS 453.060 is amended to read as follows:

20 (1) ~~If the successful party is represented by a licensed attorney,]~~The following
21 attorney's fees shall be allowed:

22 (a) ~~In the Court of Appeals,~~\$10.00

23 ~~(b)]~~In the Circuit Court,5.00

24 ~~(b)~~[(e)] In all cases in the District Court,2.50

25 (2) A~~[guardian ad litem or]~~ warning order attorney shall be allowed by the court a
26 reasonable fee for his services, to be paid by the plaintiff and taxed as costs.

27 (3) The attorney fees allowed by subsection (1)**(a) and** (b)~~[and (e)]~~ shall be taxed as

1 costs at the termination of the action and the clerks of the various courts shall at the
2 end of each month pay all sums collected as taxed attorney's fees during the month
3 to the trustees of the county law library to be used by the trustees pursuant to KRS
4 Chapter 172.