

1 AN ACT relating to the rights of victims of sexual offenses.

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

3 ➔Section 1. KRS 403.322 is amended to read as follows:

- 4 (1) The Commonwealth recognizes that certain victims of sexual assault may conceive  
5 a child as a result of the sexual assault and may choose to bear and raise the child.  
6 The Commonwealth also recognizes that victims of a sexual assault who have  
7 elected to raise a child born as a result of the sexual assault, as well as that child,  
8 may suffer serious emotional or physical trauma if the perpetrator of the assault is  
9 granted parental rights with the child.
- 10 (2) Except as provided in subsection (3) of this section, any person who has been  
11 convicted of a felony offense under KRS Chapter 510, **or a comparable offense**  
12 **from another jurisdiction**, in which the victim of that offense has conceived and  
13 delivered a child, shall not have custody or visitation rights, or the rights of  
14 inheritance under KRS Chapter 391 with respect to that child.
- 15 (3) The **adult** mother of the child may waive the protection afforded under subsection  
16 (2) of this section regarding visitation and request that the court grant reasonable  
17 visitation rights with the child if paternity has been acknowledged.
- 18 (4) Unless waived by the mother, **a de facto custodian of the child in the case of a**  
19 **minor mother, or a guardian of the minor mother**, and, if applicable, the public  
20 agency substantially contributing to the support of the child, a court shall establish a  
21 child support obligation against the father of the child pursuant to KRS 403.211.

22 ➔Section 2. KRS 405.028 is amended to read as follows:

- 23 (1) Except as provided in subsection (2) of this section, any person who has been  
24 convicted of a felony offense under KRS Chapter 510, **or a comparable offense**  
25 **from another jurisdiction**, in which the victim of that offense has conceived and  
26 delivered a child, shall not have custody or visitation rights, or the right of  
27 inheritance under KRS Chapter 391 with respect to that child.

1 (2) The **adult** mother of the child may waive the protection afforded under subsection  
 2 (1) of this section regarding visitation and request that the court grant reasonable  
 3 visitation rights with the child if paternity has been acknowledged.

4 (3) Unless waived by the mother, **a de facto custodian of the child in the case of a**  
 5 **minor mother, or a guardian of the minor mother,** and, if applicable, the public  
 6 agency substantially contributing to the support of the child, a court shall establish a  
 7 child support obligation against the father of the child pursuant to KRS 403.211. **As**  
 8 **used in this subsection, "de facto custodian" has the same meaning as in KRS**  
 9 **403.270.**

10 ➔Section 3. KRS 625.050 is amended to read as follows:

11 (1) A petition for involuntary termination of parental rights shall be entitled "In the  
 12 interest of ..., a child."

13 (2) The petition shall be filed in the Circuit Court for any of the following counties:

14 (a) The county in which either parent resides or may be found;

15 (b) The county in which juvenile court actions, if any, concerning the child have  
 16 commenced; or

17 (c) The county in which the child involved resides or is present.

18 (3) Proceedings for involuntary termination of parental rights may be initiated upon  
 19 petition by the cabinet, any child-placing agency licensed by the cabinet, any county  
 20 or Commonwealth's attorney, ~~or~~ parent, **or de facto custodian of a child born as a**  
 21 **result of a felony offense under KRS Chapter 510 or a comparable offense from**  
 22 **another jurisdiction. As used in this subsection, "de facto custodian" has the**  
 23 **same meaning as in KRS 403.270.**

24 (4) The petition for involuntary termination of parental rights shall be verified and  
 25 contain the following:

26 (a) Name and mailing address of each petitioner;

27 (b) Name, sex, date of birth and place of residence of the child;

- 1 (c) Name and address of the living parents of the child;
- 2 (d) Name, date of death and cause of death, if known, of any deceased parent;
- 3 (e) Name and address of the putative father, if known by the petitioner, of the
- 4 child if not the same person as the legal father;
- 5 (f) Name and address of the person, cabinet or agency having custody of the
- 6 child;
- 7 (g) Name and identity of the person, cabinet or authorized agency to whom
- 8 custody is sought to be transferred;
- 9 (h) Statement that the person, cabinet or agency to whom custody is to be given
- 10 has facilities available and is willing to receive the custody of the child;
- 11 (i) All pertinent information concerning termination or disclaimers of parenthood
- 12 or voluntary consent to termination;
- 13 (j) Information as to the legal status of the child and the court so adjudicating;
- 14 and
- 15 (k) A concise statement of the factual basis for the termination of parental rights.
- 16 (5) No petition may be filed under this section prior to five (5) days after the birth of
- 17 the child.
- 18 (6) No petition may be filed to terminate the parental rights of a woman solely because
- 19 of her use of a nonprescribed controlled substance during pregnancy if she enrolls in
- 20 and maintains substantial compliance with both a substance abuse treatment or
- 21 recovery program and a regimen of prenatal care as recommended by her health care
- 22 practitioner throughout the remaining term of her pregnancy. Upon certified
- 23 completion of the treatment or recovery program, or six (6) months after giving
- 24 birth during which time substantial compliance with a substance abuse treatment or
- 25 recovery program has occurred, whichever is earlier, any records maintained by a
- 26 court or by the cabinet relating to a positive test for a nonprescribed controlled
- 27 substance shall be sealed by the court and may not be used in any future criminal

1 prosecution or future petition to terminate the woman's parental rights.

2 (7) Any petition filed pursuant to this section shall be fully adjudicated and a final  
3 judgment shall be entered by the court within six (6) months of the service of the  
4 petition on the parents.

5 ➔SECTION 4. A NEW SECTION OF KRS 625.050 TO 625.120 IS CREATED  
6 TO READ AS FOLLOWS:

7 *KRS 625.090 to the contrary notwithstanding, the Circuit Court shall involuntarily*  
8 *terminate all parental rights of a parent of a named child if the Circuit Court finds*  
9 *from the pleadings by clear and convincing evidence that the parent has been convicted*  
10 *of a felony offense under KRS Chapter 510 or a comparable offense from another*  
11 *jurisdiction in which the victim of that offense has conceived and delivered the named*  
12 *child.*