

# FREE CONFERENCE COMMITTEE REPORT

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The Free Conference Committee on **HB 170** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

\_\_\_\_\_ GA   X   SCS \_\_\_\_\_ HCS

For the above-referenced bill, with these amendments (if applicable):

Committee (list by chamber and number): \_\_\_\_\_;

Floor (list by chamber and number): \_\_\_\_\_; and

The following Free Conference Committee action:

Beginning on page 5, after line 21, insert the following:

"➔Section 3. KRS 387.740 is amended to read as follows:

- (1) The court may exercise the powers of a limited guardian or limited conservator or may appoint an individual or agency to exercise such powers before or~~if,~~ during the pendency of a proceeding for a determination of partial disability or disability or an appeal therefrom, if it appears that there is danger of serious impairment to the health or safety of the respondent or damage or dissipation to his property if immediate action is not taken.
- (2) Prior to a hearing on the need for an emergency appointment of a limited guardian or limited conservator, a petition shall be filed by any person or entity which sets forth the following:
  - (a) The name, age, and address of the respondent;
  - (b) The danger alleged to be imminent;
  - (c) The type of appointment and the protection and assistance requested;
  - (d) The facts and reasons supporting the request;
  - (e) The name, address, and qualifications of the proposed limited guardian or limited conservator, if any;

- 1 (f) The name, address, and interest of the petitioner;
- 2 (g) The names and addresses of the respondent's next of kin, if known;
- 3 (h) The name and address of the individual or facility, if any, having custody of the  
4 respondent; and
- 5 (i) The date of filing of the petition for determination of disability or partial disability.
- 6 (3) **(a) The court shall review any and all petitions for an emergency appointment of a**  
7 **limited guardian or limited conservator without delay and not more than one (1)**  
8 **week after the petition is filed. The circuit clerk in the county in which the petition**  
9 **is filed shall accept all petitions and the Commonwealth shall not exclude any**  
10 **petition filed under this section from presentation to the court.** Within one (1) week  
11 of the filing of a petition pursuant to this section, the court shall conduct a hearing at  
12 which the respondent shall be entitled to counsel.
- 13 **(b)** Notice of the time and place of the hearing shall be given not less than forty-eight  
14 (48) hours prior to the hearing to all persons named in the petition, **the petitioner,**  
15 and ~~to~~ the **Commonwealth unless waived in writing or on the record.**
- 16 **(4) The Commonwealth shall present evidence at the hearing. The petitioner shall have the**  
17 **right to present evidence in support of the petition at the hearing in addition to any**  
18 **evidence presented by the Commonwealth, and shall have the right to cross-examine**  
19 **witnesses**~~[county attorney]~~.
- 20 ~~(5)~~~~(4)~~ The burden shall be on the Commonwealth **and the petitioner** to prove by clear and  
21 convincing evidence the need for the emergency appointment of a limited guardian or  
22 conservator.
- 23 ~~(6)~~~~(5)~~ If the court exercises the powers of a limited guardian or limited conservator or  
24 appoints another to do so in an emergency situation as set forth in subsection (1) of this  
25 section, the court shall state on the record findings of fact as to the danger determined to be  
26 imminent, the sources relied on in arriving at such determination, the type of assistance to  
27 be provided, and the powers and duties of the emergency guardian or conservator. The

1 authority of the guardian or conservator shall expire upon resolution of the appeal or action.

2 ➔Section 4. KRS 620.360 is amended to read as follows:

3 (1) Persons who provide foster care services to children who have been committed to the  
4 custody of the state shall be considered a primary partner and member of a professional  
5 team caring for foster children. Foster parents shall have the following rights:

6 (a) To be treated with respect, consideration, and dignity;

7 (b) To fully understand the role of the cabinet and the role of other members of the child's  
8 professional team;

9 (c) To receive information and training about foster parents' rights, responsibilities, and  
10 access to local and statewide support groups, including but not limited to the  
11 Kentucky Foster/Adoptive Care Association, the Kentucky Foster and Adoptive  
12 Parent Network, and Adoption Support of Kentucky;

13 (d) To receive information and training to improve skills in the daily care and in meeting  
14 the special needs of foster children;

15 (e) To receive timely and adequate financial reimbursement for knowledgeable and  
16 quality care of a child in foster care within budgetary limitations;

17 (f) To maintain the foster family's own routines and values while respecting the rights  
18 and confidentiality of each foster child placed in their home;

19 (g) To receive a period of respite from providing foster care, pursuant to cabinet policies;

20 (h) To receive, upon an open records request, a copy of all information contained in the  
21 cabinet's records about the family's foster home and the foster care services provided  
22 by the family consistent with KRS 605.160;

23 (i) To access cabinet support and assistance as necessary twenty-four (24) hours per day,  
24 seven (7) days per week;

25 (j) To receive, prior to a child being placed in the foster home pursuant to KRS 605.090,  
26 information relating to the child's behavior, family background, or health history that  
27 may jeopardize the health or safety of any member of the foster family's household,

- 1 including other foster children, and similar information that may affect the manner in  
2 which foster care services are provided, consistent with KRS 605.160. In an  
3 emergency situation, the cabinet shall provide information as soon as it is available;
- 4 (k) To refuse placement of a child within the foster home and to request, with reasonable  
5 notice to the cabinet, the removal of a child from the foster home without fear of  
6 reprisal;
- 7 (l) To communicate, with an appropriate release of information consistent with KRS  
8 605.160, with other professionals who work directly with the foster child, including  
9 but not limited to teachers, therapists, and health care practitioners and to notify the  
10 cabinet within twenty-four (24) hours of the communication;
- 11 (m) To assist the cabinet in the development of the child's plan of care;
- 12 (n) To receive an explanatory notice from the cabinet, consistent with KRS 620.130 and  
13 when it is in the best interest of the child, when a foster child's case plan has changed  
14 and, except in an immediate response to a child protective services investigation  
15 involving the foster home, an explanatory notice of termination or change in  
16 placement affecting the foster home within fourteen (14) days of the change or  
17 termination in placement;
- 18 (o) To have priority consideration for placement if a child who has previously been  
19 placed in the foster home reenters foster care, consistent with KRS 605.130 and  
20 620.130 and to the extent it is in the best interest of the child;
- 21 (p) To have priority consideration for adoption if a foster child who has been placed in  
22 the foster home for a period of at least twelve (12) consecutive months becomes  
23 eligible for adoption consistent with KRS 605.130 and 620.130 and to the extent it is  
24 in the best interest of the child;
- 25 (q) To maintain contact with the foster child after the child leaves the foster home, unless  
26 the child, a biological parent, the cabinet when the cabinet retains custody of the  
27 child, or other foster or adoptive parent refuses such contact; and

- 1 (r) To receive notice of, have a right to attend, and have a right to be heard in, either  
2 verbally or in writing, any cabinet or court proceeding held with respect to the child  
3 currently placed in their care, provided the cabinet has no concerns related to  
4 maltreatment of the child while in the foster parent's care. **The notice required by this**  
5 **paragraph shall be provided to the foster parent by an attorney for the Cabinet for**  
6 **Health and Family Services.** This paragraph shall not be construed to require that a  
7 foster parent caring for the child be made a party to a proceeding solely on the basis  
8 of the notice and rights to attend and be heard.
- 9 (2) The responsibilities of foster parents shall include but not be limited to the following:
- 10 (a) To maintain an orderly and clean home;
- 11 (b) To ensure that the child has adequate resources for personal hygiene and clothing;
- 12 (c) To provide recreational and spiritual opportunities for the child, in accordance with  
13 cabinet policies;
- 14 (d) To attend all school and case planning meetings involving a foster child placed in  
15 their home whenever possible, subject to KRS 620.130 and the confidentiality  
16 requirements of 42 U.S.C. sec. 671;
- 17 (e) To abide by cabinet policies relating to discipline of a foster child; and
- 18 (f) To support the involvement of a foster child's biological family whenever possible  
19 and in accordance with cabinet policies.
- 20 (3) The cabinet shall provide specific training on investigations of alleged child abuse or  
21 neglect in a foster home to a person appointed by the Kentucky Foster/Adoptive Care  
22 Association. The training shall include the rights of a foster parent during an investigation.  
23 Training shall be consistent with 42 U.S.C. sec. 5106(a).
- 24 (4) The cabinet shall promulgate administrative regulations to establish that foster parent  
25 approval shall be effective for a minimum of three (3) years before reevaluation is required.
- 26 (5) Nothing in this section shall be construed to establish monetary liability of or cause of  
27 action against the cabinet.

- 1        ➔Section 5. Section 3 of this Act may be cited as the Jeff Tyler Act."; and
- 2        On page 5, line 22, after the word "Section", delete "3" and insert in lieu thereof "6"; and
- 3        On page 5, line 24, after the word "and" the first time it appears on that line, insert
- 4        "Sections 1 to 3 of"; and
- 5        On page 1, line 1, amend the title to read, "AN ACT relating to civil proceedings and
- 6        declaring an emergency."
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