

FREE CONFERENCE COMMITTEE REPORT

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The Free Conference Committee on **SB 90** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

_____ GA _____ SCS X HCS

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

Committee (list by chamber and number): _____;

Floor (list by chamber and number): House Floor Amendment 1 and House Floor Amendment 2; and

The following Free Conference Committee action:

On page 27, after line 18, insert the following:

➔Section 13. Notwithstanding KRS 15.291 and 15.293(5), there is hereby appropriated Restricted Funds in the amount of \$10,500,000 in each fiscal year from the Opioid Abatement Trust Fund to the Behavioral Health, Developmental and Intellectual Disabilities budget unit for the behavioral health conditional dismissal program described in Sections 1 to 8 of this Act. The department shall reimburse the Administrative Office of the Courts for administrative costs related to the program up to \$500,000 per year.

➔Section 14. 2022 RS HB 214/EN is hereby amended as follows:

On page 10, line 3, delete "January 1, 2027" and insert in lieu thereof "January 1, 2031"; and

On page 10, line 10, after "November 2026 regular election" insert "or the November 2030 regular election"; and

On page 10, line 18, after "November 2026 regular election" insert "or the November 2030 regular election"; and

On page 11, line 3, delete "November 2026" and insert in lieu thereof "November 2030".

1 ➔Section 15. KRS 625.090 is amended to read as follows:

2 (1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named
3 child, if the Circuit Court finds from the pleadings and by clear and convincing evidence
4 that:

5 (a) 1. The child has been adjudged to be an abused or neglected child, as defined in
6 KRS 600.020(1), by a court of competent jurisdiction;

7 2. The child is found to be an abused or neglected child, as defined in KRS
8 600.020(1), by the Circuit Court in this proceeding;

9 3. The child is found to have been diagnosed with neonatal abstinence syndrome at
10 the time of birth, unless his or her birth mother:

11 a. Was prescribed and properly using medication for a legitimate medical
12 condition as directed by a health care practitioner that may have led to the
13 neonatal abstinence syndrome; or

14 b. Is currently, or within ninety (90) days after the birth, enrolled in and
15 maintaining substantial compliance with both a substance abuse treatment
16 or recovery program and a regimen of prenatal care or postnatal care as
17 recommended by her health care practitioner throughout the remaining
18 term of her pregnancy or the appropriate time after her pregnancy; or

19 4. The parent has been convicted of a criminal charge relating to the physical or
20 sexual abuse or neglect of any child and that physical or sexual abuse, neglect,
21 or emotional injury to the child named in the present termination action is likely
22 to occur if the parental rights are not terminated;

23 (b) 1. The Cabinet for Health and Family Services has filed a petition with the court
24 pursuant to KRS 620.180 or 625.050; or

25 2. A child-placing agency licensed by the cabinet, any county or
26 Commonwealth's attorney, or a parent has filed a petition with the court
27 under KRS 625.050; and

- 1 (c) Termination would be in the best interest of the child.
- 2 (2) No termination of parental rights shall be ordered unless the Circuit Court also finds by
3 clear and convincing evidence the existence of one (1) or more of the following grounds:
- 4 (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
- 5 (b) That the parent has inflicted or allowed to be inflicted upon the child, by other than
6 accidental means, serious physical injury;
- 7 (c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted
8 upon the child, by other than accidental means, physical injury or emotional harm;
- 9 (d) That the parent has been convicted of a felony that involved the infliction of serious
10 physical injury to any child;
- 11 (e) That the parent, for a period of not less than six (6) months, has continuously or
12 repeatedly failed or refused to provide or has been substantially incapable of
13 providing essential parental care and protection for the child and that there is no
14 reasonable expectation of improvement in parental care and protection, considering
15 the age of the child;
- 16 (f) That the parent has caused or allowed the child to be sexually abused or exploited;
- 17 (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly
18 failed to provide or is incapable of providing essential food, clothing, shelter, medical
19 care, or education reasonably necessary and available for the child's well-being and
20 that there is no reasonable expectation of significant improvement in the parent's
21 conduct in the immediately foreseeable future, considering the age of the child;
- 22 (h) That:
- 23 1. The parent's parental rights to another child have been involuntarily terminated;
- 24 2. The child named in the present termination action was born subsequent to or
25 during the pendency of the previous termination; and
- 26 3. The conditions or factors which were the basis for the previous termination
27 finding have not been corrected;

- 1 (i) That the parent has been convicted in a criminal proceeding of having caused or
2 contributed to the death of another child as a result of physical or sexual abuse or
3 neglect;
- 4 (j) That the child has been in foster care under the responsibility of the cabinet for fifteen
5 (15) cumulative months out of forty-eight (48) months preceding the filing of the
6 petition to terminate parental rights; or
- 7 (k) That the child has been removed from the biological or legal parents more than two
8 (2) times in a twenty-four (24) month period by the cabinet or a court.
- 9 (3) In determining the best interest of the child and the existence of a ground for termination,
10 the Circuit Court shall consider the following factors:
- 11 (a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as defined
12 by KRS 202B.010(9) of the parent as certified by a qualified mental health
13 professional, which renders the parent consistently unable to care for the immediate
14 and ongoing physical or psychological needs of the child for extended periods of
15 time;
- 16 (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the family;
- 17 (c) If the child has been placed with the cabinet, whether the cabinet has, prior to the
18 filing of the petition made reasonable efforts as defined in KRS 620.020 to reunite the
19 child with the parents unless one or more of the circumstances enumerated in KRS
20 610.127 for not requiring reasonable efforts have been substantiated in a written
21 finding by the District Court;
- 22 (d) The efforts and adjustments the parent has made in his circumstances, conduct, or
23 conditions to make it in the child's best interest to return him to his home within a
24 reasonable period of time, considering the age of the child;
- 25 (e) The physical, emotional, and mental health of the child and the prospects for the
26 improvement of the child's welfare if termination is ordered; and
- 27 (f) The payment or the failure to pay a reasonable portion of substitute physical care and

- 1 maintenance if financially able to do so.
- 2 (4) If the child has been placed with the cabinet, the parent may present testimony concerning
3 the reunification services offered by the cabinet and whether additional services would be
4 likely to bring about lasting parental adjustment enabling a return of the child to the parent.
- 5 (5) If the parent proves by a preponderance of the evidence that the child will not continue to
6 be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent the
7 court in its discretion may determine not to terminate parental rights.
- 8 (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
9 findings of fact, conclusions of law, and a decision as to each parent-respondent within
10 thirty (30) days either:
- 11 (a) Terminating the right of the parent; or
12 (b) Dismissing the petition and stating whether the child shall be returned to the parent or
13 shall remain in the custody of the state."; and

14 On page 1, line 1, amend the title to read, "AN ACT relating to legal proceedings and
15 making an appropriation therefor."

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Senate Members

House Members

____ Sen. Whitney Westerfield, Chair

Rep. C. Ed Massey, Chair

____ Sen. Jason Howell

Rep. Jason Petrie

____ Sen. David Yates

Rep. Joni Jenkins

The above-named members, in separate votes by house, all concur in the provisions of this report.

DATE

April 14, 2022

For Clerk's Use:

Adopted: _____

Repassage Vote: _____