

1 AN ACT relating to abuse or neglect of a child.

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

3 →Section 1. KRS 600.020 is amended to read as follows:

4 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

5 (1) **(a)** "Abused or neglected child" means a child whose health or welfare is harmed
6 or threatened with harm when:

7 **1.**~~[(a)]~~ His or her parent, guardian, person in a position of authority or
8 special trust, as defined in KRS 532.045, or other person exercising
9 custodial control or supervision of the child:

10 **a.**~~[1.]~~ Inflicts or allows to be inflicted upon the child physical or
11 emotional injury as defined in this section by other than accidental
12 means;

13 **b.**~~[2.]~~ Creates or allows to be created a risk of physical or emotional
14 injury as defined in this section to the child by other than
15 accidental means;

16 **c.**~~[3.]~~ Engages in a pattern of conduct that renders the parent incapable of
17 caring for the immediate and ongoing needs of the child, including
18 but not limited to parental incapacity due to a substance use
19 disorder as defined in KRS 222.005;

20 **d.**~~[4.]~~ Continuously or repeatedly fails or refuses to provide essential
21 parental care and protection for the child, considering the age of
22 the child;

23 **e.**~~[5.]~~ Commits or allows to be committed an act of sexual abuse, sexual
24 exploitation, or prostitution upon the child;

25 **f.**~~[6.]~~ Creates or allows to be created a risk that an act of sexual abuse,
26 sexual exploitation, or prostitution will be committed upon the
27 child;

1 ~~g.[7.]~~ Abandons or exploits the child;

2 ~~h.[8.]~~ Does not provide the child with adequate care, supervision, food,
3 clothing, shelter, and education or medical care necessary for the
4 child's well-being. A parent or other person exercising custodial
5 control or supervision of the child legitimately practicing the
6 person's religious beliefs shall not be considered a negligent parent
7 solely because of failure to provide specified medical treatment for
8 a child for that reason alone. This exception shall not preclude a
9 court from ordering necessary medical services for a child;

10 ~~i.[9.]~~ Fails to make sufficient progress toward identified goals as set
11 forth in the court-approved case plan to allow for the safe return of
12 the child to the parent that results in the child remaining
13 committed to the cabinet and remaining in foster care for fifteen
14 (15) cumulative months out of forty-eight (48) months; or

15 ~~j.[10.]~~ Commits or allows female genital mutilation as defined in
16 KRS 508.125 to be committed; or

17 ~~2.[(b)]~~ A person twenty-one (21) years of age or older commits or allows
18 to be committed an act of sexual abuse, sexual exploitation, or
19 prostitution upon a child less than sixteen (16) years of age.

20 **(b) "Abused or neglected child" does not mean a child whose basic needs are**
21 **met, who is of sufficient age and maturity to avoid unreasonable risk of**
22 **harm, and who is engaging in independent activities;**

23 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
24 675(11);

25 (3) "Aggravated circumstances" means the existence of one (1) or more of the
26 following conditions:

27 (a) The parent has not attempted or has not had contact with the child for a period

- 1 of not less than ninety (90) days;
- 2 (b) The parent is incarcerated and will be unavailable to care for the child for a
3 period of at least one (1) year from the date of the child's entry into foster care
4 and there is no appropriate relative placement available during this period of
5 time;
- 6 (c) The parent has sexually abused the child and has refused available treatment;
- 7 (d) The parent has been found by the cabinet to have engaged in abuse of the
8 child that required removal from the parent's home two (2) or more times in
9 the past two (2) years; or
- 10 (e) The parent has caused the child serious physical injury;
- 11 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
12 the reasonable directives of his or her parents, legal guardian, or person exercising
13 custodial control or supervision other than a state agency, which behavior results in
14 danger to the child or others, and which behavior does not constitute behavior that
15 would warrant the filing of a petition under KRS Chapter 645;
- 16 (5) "Beyond the control of school" means any child who has been found by the court to
17 have repeatedly violated the lawful regulations for the government of the school as
18 provided in KRS 158.150, and as documented in writing by the school as a part of
19 the school's petition or as an attachment to the school's petition. The petition or
20 attachment shall describe the student's behavior and all intervention strategies
21 attempted by the school;
- 22 (6) "Boarding home" means a privately owned and operated home for the boarding and
23 lodging of individuals which is approved by the Department of Juvenile Justice or
24 the cabinet for the placement of children committed to the department or the
25 cabinet;
- 26 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 27 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,

- 1 and who have completed a course of education and training in juvenile detention
2 developed and approved by, the Department of Juvenile Justice after consultation
3 with other appropriate state agencies;
- 4 (9) "Child" means any person who has not reached his or her eighteenth birthday,
5 unless otherwise provided;
- 6 (10) "Child-caring facility" means any facility or group home other than a state facility,
7 Department of Juvenile Justice contract facility or group home, or one certified by
8 an appropriate agency as operated primarily for educational or medical purposes,
9 providing residential care on a twenty-four (24) hour basis to children not related by
10 blood, adoption, or marriage to the person maintaining the facility;
- 11 (11) "Child-placing agency" means any agency, other than a state agency, which
12 supervises the placement of children in foster family homes or child-caring facilities
13 or which places children for adoption;
- 14 (12) "Clinical treatment facility" means a facility with more than eight (8) beds
15 designated by the Department of Juvenile Justice or the cabinet for the treatment of
16 mentally ill children. The treatment program of such facilities shall be supervised by
17 a qualified mental health professional;
- 18 (13) "Commitment" means an order of the court which places a child under the custodial
19 control or supervision of the Cabinet for Health and Family Services, Department of
20 Juvenile Justice, or another facility or agency until the child attains the age of
21 eighteen (18) unless otherwise provided by law;
- 22 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
23 operated, or permitted to operate by the Department of Juvenile Justice or the
24 cabinet, which is located within a reasonable proximity of the child's family and
25 home community, which affords the child the opportunity, if a Kentucky resident, to
26 continue family and community contact;
- 27 (15) "Complaint" means a verified statement setting forth allegations in regard to the

- 1 child which contain sufficient facts for the formulation of a subsequent petition;
- 2 (16) "Court" means the juvenile session of District Court unless a statute specifies the
3 adult session of District Court or the Circuit Court;
- 4 (17) "Court-designated worker" means that organization or individual delegated by the
5 Administrative Office of the Courts for the purposes of placing children in
6 alternative placements prior to arraignment, conducting preliminary investigations,
7 and formulating, entering into, and supervising diversion agreements and
8 performing such other functions as authorized by law or court order;
- 9 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 10 (19) "Department" means the Department for Community Based Services;
- 11 (20) "Dependent child" means any child, other than an abused or neglected child, who is
12 under improper care, custody, control, or guardianship that is not due to an
13 intentional act of the parent, guardian, or person exercising custodial control or
14 supervision of the child;
- 15 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
16 conduct subject to the jurisdiction of the court who requires a restricted or closely
17 supervised environment for his or her own or the community's protection;
- 18 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
19 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
20 period of detention prior to adjudication;
- 21 (23) "Diversion agreement" means a mechanism designed to hold a child accountable for
22 his or her behavior and, if appropriate, securing services to serve the best interest of
23 the child and to provide redress for that behavior without court action and without
24 the creation of a formal court record;
- 25 (24) "Eligible youth" means a person who:
- 26 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 27 (b) Is eighteen (18) years of age to nineteen (19) years of age; and

- 1 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
2 order to participate in state or federal educational programs or to establish
3 independent living arrangements;
- 4 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
5 homelike facility which provides temporary or emergency care of children and
6 adequate staff and services consistent with the needs of each child;
- 7 (26) "Emotional injury" means an injury to the mental or psychological capacity or
8 emotional stability of a child as evidenced by a substantial and observable
9 impairment in the child's ability to function within a normal range of performance
10 and behavior with due regard to his or her age, development, culture, and
11 environment as testified to by a qualified mental health professional;
- 12 (27) "Evidence-based practices" means policies, procedures, programs, and practices
13 proven by scientific research to reliably produce reductions in recidivism;
- 14 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
15 to a child, but who has an emotionally significant relationship with the child;
- 16 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 17 (30) "Foster family home" means a private home in which children are placed for foster
18 family care under supervision of the cabinet or a licensed child-placing agency;
- 19 (31) "Graduated sanction" means any of a continuum of accountability measures,
20 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
21 that may include but are not limited to:
- 22 (a) Electronic monitoring;
- 23 (b) Drug and alcohol screening, testing, or monitoring;
- 24 (c) Day or evening reporting centers;
- 25 (d) Reporting requirements;
- 26 (e) Community service; and
- 27 (f) Rehabilitative interventions such as family counseling, substance abuse

1 treatment, restorative justice programs, and behavioral or mental health
2 treatment;

3 (32) "Habitual runaway" means any child who has been found by the court to have been
4 absent from his or her place of lawful residence without the permission of his or her
5 custodian for at least three (3) days during a one (1) year period;

6 (33) "Habitual truant" means any child who has been found by the court to have been
7 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a
8 one (1) year period;

9 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
10 public facility, health care facility, or part thereof, which is approved by the cabinet
11 to treat children;

12 (35) "Independent living" means those activities necessary to assist a committed child to
13 establish independent living arrangements;

14 (36) "Informal adjustment" means an agreement reached among the parties, with
15 consultation, but not the consent, of the victim of the crime or other persons
16 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
17 after a petition has been filed, which is approved by the court, that the best interest
18 of the child would be served without formal adjudication and disposition;

19 (37) "Intentionally" means, with respect to a result or to conduct described by a statute
20 which defines an offense, that the actor's conscious objective is to cause that result
21 or to engage in that conduct;

22 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
23 the program developed on the child's behalf is no more harsh, hazardous, or
24 intrusive than necessary; or involves no restrictions on physical movements nor
25 requirements for residential care except as reasonably necessary for the protection
26 of the child from physical injury; or protection of the community, and is conducted
27 at the suitable available facility closest to the child's place of residence to allow for

- 1 appropriate family engagement;
- 2 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
3 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 4 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
5 serious or critical condition;
- 6 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 7 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who
8 has not been otherwise charged with a status or public offense;
- 9 (43) "Nonsecure facility" means a facility which provides its residents access to the
10 surrounding community and which does not rely primarily on the use of physically
11 restricting construction and hardware to restrict freedom;
- 12 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a
13 child's own home, where a child may be temporarily placed pending further court
14 action. Children before the court in a county that is served by a state operated secure
15 detention facility, who are in the detention custody of the Department of Juvenile
16 Justice, and who are placed in a nonsecure alternative by the Department of
17 Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 18 (45) "Out-of-home placement" means a placement other than in the home of a parent,
19 relative, or guardian, in a boarding home, clinical treatment facility, community-
20 based facility, detention facility, emergency shelter, fictive kin home, foster family
21 home, hospital, nonsecure facility, physically secure facility, residential treatment
22 facility, or youth alternative center;
- 23 (46) "Parent" means the biological or adoptive mother or father of a child;
- 24 (47) "Person exercising custodial control or supervision" means a person or agency that
25 has assumed the role and responsibility of a parent or guardian for the child, but that
26 does not necessarily have legal custody of the child;
- 27 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,

1 which initiates formal court involvement in the child's case;

2 (49) "Physical injury" means substantial physical pain or any impairment of physical
3 condition;

4 (50) "Physically secure facility" means a facility that relies primarily on the use of
5 construction and hardware such as locks, bars, and fences to restrict freedom;

6 (51) "Public offense action" means an action, excluding contempt, brought in the interest
7 of a child who is accused of committing an offense under KRS Chapter 527 or a
8 public offense which, if committed by an adult, would be a crime, whether the same
9 is a felony, misdemeanor, or violation, other than an action alleging that a child
10 sixteen (16) years of age or older has committed a motor vehicle offense;

11 (52) "Qualified mental health professional" means:

12 (a) A physician licensed under the laws of Kentucky to practice medicine or
13 osteopathy, or a medical officer of the government of the United States while
14 engaged in the performance of official duties;

15 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
16 osteopathy, or a medical officer of the government of the United States while
17 engaged in the practice of official duties, and who is certified or eligible to
18 apply for certification by the American Board of Psychiatry and Neurology,
19 Inc.;

20 (c) A psychologist with the health service provider designation, a psychological
21 practitioner, a certified psychologist, or a psychological associate licensed
22 under the provisions of KRS Chapter 319;

23 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
24 an accredited institution and two (2) years of clinical experience with mentally
25 ill persons, or a licensed registered nurse with a bachelor's degree in nursing
26 from an accredited institution who is certified as a psychiatric and mental
27 health nurse by the American Nurses Association and who has three (3) years

1 of inpatient or outpatient clinical experience in psychiatric nursing and who is
2 currently employed by a hospital or forensic psychiatric facility licensed by
3 the Commonwealth or a psychiatric unit of a general hospital, a private agency
4 or company engaged in providing mental health services, or a regional
5 comprehensive care center;

6 (e) A licensed clinical social worker licensed under the provisions of KRS
7 335.100, or a certified social worker licensed under the provisions of KRS
8 335.080 with three (3) years of inpatient or outpatient clinical experience in
9 psychiatric social work and currently employed by a hospital or forensic
10 psychiatric facility licensed by the Commonwealth, a psychiatric unit of a
11 general hospital, a private agency or company engaged in providing mental
12 health services, or a regional comprehensive care center;

13 (f) A marriage and family therapist licensed under the provisions of KRS 335.300
14 to 335.399 with three (3) years of inpatient or outpatient clinical experience in
15 psychiatric mental health practice and currently employed by a hospital or
16 forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit
17 of a general hospital, a private agency or company engaged in providing
18 mental health services, or a regional comprehensive care center;

19 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
20 335.599 with three (3) years of inpatient or outpatient clinical experience in
21 psychiatric mental health practice and currently employed by a hospital or
22 forensic facility licensed by the Commonwealth, a psychiatric unit of a general
23 hospital, a private agency or company engaged in providing mental health
24 services, or a regional comprehensive care center; or

25 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
26 (1) of the following requirements:

27 1. Provides documentation that he or she has completed a psychiatric

- 1 residency program for physician assistants;
- 2 2. Has completed at least one thousand (1,000) hours of clinical experience
- 3 under a supervising physician, as defined by KRS 311.840, who is a
- 4 psychiatrist and is certified or eligible for certification by the American
- 5 Board of Psychiatry and Neurology, Inc.;
- 6 3. Holds a master's degree from a physician assistant program accredited
- 7 by the Accreditation Review Commission on Education for the
- 8 Physician Assistant or its predecessor or successor agencies, is
- 9 practicing under a supervising physician as defined by KRS 311.840,
- 10 and:
- 11 a. Has two (2) years of clinical experience in the assessment,
- 12 evaluation, and treatment of mental disorders; or
- 13 b. Has been employed by a hospital or forensic psychiatric facility
- 14 licensed by the Commonwealth or a psychiatric unit of a general
- 15 hospital or a private agency or company engaged in the provision
- 16 of mental health services or a regional community program for
- 17 mental health and individuals with an intellectual disability for at
- 18 least two (2) years; or
- 19 4. Holds a bachelor's degree, possesses a current physician assistant
- 20 certificate issued by the board prior to July 15, 2002, is practicing under
- 21 a supervising physician as defined by KRS 311.840, and:
- 22 a. Has three (3) years of clinical experience in the assessment,
- 23 evaluation, and treatment of mental disorders; or
- 24 b. Has been employed by a hospital or forensic psychiatric facility
- 25 licensed by the Commonwealth or a psychiatric unit of a general
- 26 hospital or a private agency or company engaged in the provision
- 27 of mental health services or a regional community program for

1 mental health and individuals with an intellectual disability for at
2 least three (3) years;

3 (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.
4 sec. 675(10);

5 (54) "Residential treatment facility" means a facility or group home with more than eight
6 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
7 treatment of children;

8 (55) "Retain in custody" means, after a child has been taken into custody, the continued
9 holding of the child by a peace officer for a period of time not to exceed twelve (12)
10 hours when authorized by the court or the court-designated worker for the purpose
11 of making preliminary inquiries;

12 (56) "Risk and needs assessment" means an actuarial tool scientifically proven to
13 identify specific factors and needs that are related to delinquent and noncriminal
14 misconduct;

15 (57) "School personnel" means those certified persons under the supervision of the local
16 public or private education agency;

17 (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;

18 (59) "Secure juvenile detention facility" means any physically secure facility used for the
19 secure detention of children other than any facility in which adult prisoners are
20 confined;

21 (60) "Serious physical injury" means physical injury which creates a substantial risk of
22 death or which causes serious and prolonged disfigurement, prolonged impairment
23 of health, or prolonged loss or impairment of the function of any bodily member or
24 organ;

25 (61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions
26 in which the parent, guardian, person in a position of authority or special trust, as
27 defined in KRS 532.045, or other person having custodial control or supervision of

1 the child or responsibility for his or her welfare, uses or allows, permits, or
2 encourages the use of the child for the purposes of the sexual stimulation of the
3 perpetrator or another person;

4 (62) "Sexual exploitation" includes but is not limited to a situation in which a parent,
5 guardian, person in a position of authority or special trust, as defined in KRS
6 532.045, or other person having custodial control or supervision of a child or
7 responsible for his or her welfare, allows, permits, or encourages the child to engage
8 in an act which constitutes prostitution under Kentucky law; or a parent, guardian,
9 person in a position of authority or special trust, as defined in KRS 532.045, or
10 other person having custodial control or supervision of a child or responsible for his
11 or her welfare, allows, permits, or encourages the child to engage in an act of
12 obscene or pornographic photographing, filming, or depicting of a child as provided
13 for under Kentucky law;

14 (63) "Social service worker" means any employee of the cabinet or any private agency
15 designated as such by the secretary of the cabinet or a social worker employed by a
16 county or city who has been approved by the cabinet to provide, under its
17 supervision, services to families and children;

18 (64) "Staff secure facility for residential treatment" means any setting which assures that
19 all entrances and exits are under the exclusive control of the facility staff, and in
20 which a child may reside for the purpose of receiving treatment;

21 (65) (a) "Status offense action" is any action brought in the interest of a child who is
22 accused of committing acts, which if committed by an adult, would not be a
23 crime. Such behavior shall not be considered criminal or delinquent and such
24 children shall be termed status offenders. Status offenses shall include:

- 25 1. Beyond the control of school or beyond the control of parents;
- 26 2. Habitual runaway;
- 27 3. Habitual truant; and

- 1 4. Alcohol offenses as provided in KRS 244.085.
- 2 (b) Status offenses shall not include violations of state or local ordinances which
- 3 may apply to children such as a violation of curfew;
- 4 (66) "Take into custody" means the procedure by which a peace officer or other
- 5 authorized person initially assumes custody of a child. A child may be taken into
- 6 custody for a period of time not to exceed two (2) hours;
- 7 (67) "Transitional living support" means all benefits to which an eligible youth is
- 8 entitled upon being granted extended or reinstated commitment to the cabinet by the
- 9 court;
- 10 (68) "Transition plan" means a plan that is personalized at the direction of the youth that:
- 11 (a) Includes specific options on housing, health insurance, education, local
- 12 opportunities for mentors and continuing support services, and workforce
- 13 supports and employment services; and
- 14 (b) Is as detailed as the youth may elect;
- 15 (69) "Valid court order" means a court order issued by a judge to a child alleged or found
- 16 to be a status offender:
- 17 (a) Who was brought before the court and made subject to the order;
- 18 (b) Whose future conduct was regulated by the order;
- 19 (c) Who was given written and verbal warning of the consequences of the
- 20 violation of the order at the time the order was issued and whose attorney or
- 21 parent or legal guardian was also provided with a written notice of the
- 22 consequences of violation of the order, which notification is reflected in the
- 23 record of the court proceedings; and
- 24 (d) Who received, before the issuance of the order, the full due process rights
- 25 guaranteed by the Constitution of the United States;
- 26 (70) "Violation" means any offense, other than a traffic infraction, for which a sentence
- 27 of a fine only can be imposed;

- 1 (71) "Youth alternative center" means a nonsecure facility, approved by the Department
2 of Juvenile Justice, for the detention of juveniles, both prior to adjudication and
3 after adjudication, which meets the criteria specified in KRS 15A.320; and
- 4 (72) "Youthful offender" means any person regardless of age, transferred to Circuit
5 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently
6 convicted in Circuit Court.