

1 AN ACT relating to the rights of parents.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO  
4 READ AS FOLLOWS:

5 *The General Assembly finds the following:*

- 6 *(1) The interests and role of parents in the care, custody, and control of their*  
7 *children are implicit in the concept of ordered liberty, deeply rooted in our*  
8 *nation's history and tradition, and among the unalienable rights retained by the*  
9 *people under the Ninth Amendment to the Constitution of the United States;*  
10 *(2) The interests of parents include the high duty and right to nurture and direct*  
11 *their children's destiny, including their upbringing and education;*  
12 *(3) The Commonwealth has independent authority to protect its parents'*  
13 *fundamental right to nurture and direct their children's destiny, upbringing, and*  
14 *education;*  
15 *(4) The protections and rights recognized in Section 2 of this Act are rooted in the*  
16 *due process of law guaranteed pursuant to the Constitution of the United States;*  
17 *(5) Governmental efforts that restrict or interfere with these fundamental rights are*  
18 *only permitted if that restriction or interference satisfies the judicial standard of*  
19 *strict scrutiny; and*  
20 *(6) Nothing in this section or Section 2 of this Act shall be construed as altering the*  
21 *established presumption in favor of the constitutionality of statutes and*  
22 *regulations.*

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO  
24 READ AS FOLLOWS:

- 25 *(1) As used in this section, "parent" means the biological or adoptive mother or*  
26 *father of a child.*  
27 *(2) A parent who has legal custody of any minor child or children shall have the*

- 1       fundamental right to make decisions concerning their care, custody, and control.
- 2       (3) A parent who has legal custody of any minor child or children shall have the  
3       fundamental right and duty to make decisions concerning their education,  
4       including the right to cause the child to be educated in any manner authorized  
5       pursuant to KRS 159.010 and in accordance with the laws and Constitution of  
6       the Commonwealth of Kentucky.
- 7       (4) The Commonwealth of Kentucky, or any political subdivision thereof, shall not  
8       violate a parent's fundamental and established rights protected by this section.  
9       Any restriction of or interference with these rights, whether now existing or  
10       hereafter, shall not be upheld unless it is demonstrated by clear and convincing  
11       evidence that the restriction or interference is both:
- 12       (a) Essential to further a compelling governmental interest; and  
13       (b) The least restrictive means available for the furthering of that compelling  
14       governmental interest.
- 15       (5) The principles expressed in this section apply to any interference whether now  
16       existing or hereafter enacted.
- 17       (6) Nothing in this section or Section 1 of this Act shall apply to the provisions of  
18       KRS Chapter 402 relating to child marriage or permit a parent to abuse or  
19       neglect a child as defined in KRS Chapter 508 or KRS 600.020.
- 20       (7) When a parent's fundamental rights protected by this section are violated, a  
21       parent may assert that violation as a claim or defense in a judicial proceeding  
22       and may obtain appropriate relief against the governmental entity.
- 23       (8) If a parent prevails in a civil action against the state or a political subdivision  
24       thereof, as provided in subsection (7) of this section, the parent is entitled to  
25       reasonable attorney's fees and costs.

26       ➔Section 3. This Act shall be known and may be cited as the Parents' Rights  
27 Protection Act.