

1 AN ACT relating to neglect and abuse.

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) "Abused ~~for neglected~~ child" means a child whose health or welfare is harmed or  
6 threatened with harm when:

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

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

12 2. Creates or allows to be created a risk of physical ~~for emotional~~ injury as  
13 defined in this section to the child by other than accidental means;

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

18 4. ~~Continuously or repeatedly fails or refuses to provide essential parental~~  
19 ~~care and protection for the child, considering the age of the child];~~

20 4~~5~~. Commits or allows to be committed an act of sexual abuse, sexual  
21 exploitation, or prostitution upon the child;

22 5~~6~~. Creates or allows to be created a risk that an act of sexual abuse, sexual  
23 exploitation, or prostitution will be committed upon the child;

24 6~~7~~. ~~Abandons or~~ Exploits the child;

25 ~~8. Does not provide the child with adequate care, supervision, food,~~  
26 ~~clothing, shelter, and education or medical care necessary for the child's~~  
27 ~~well being when financially able to do so or offered financial or other~~

1           ~~means to do so. A parent or other person exercising custodial control or~~  
 2           ~~supervision of the child legitimately practicing the person's religious~~  
 3           ~~beliefs shall not be considered a negligent parent solely because of~~  
 4           ~~failure to provide specified medical treatment for a child for that reason~~  
 5           ~~alone. This exception shall not preclude a court from ordering necessary~~  
 6           ~~medical services for a child;~~

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

12           ~~7[10]. Commits or allows female genital mutilation as defined in KRS~~  
 13           ~~508.125 to be committed;[or]~~

14           (b) A person twenty-one (21) years of age or older commits or allows to be  
 15           committed an act of sexual abuse, sexual exploitation, or prostitution upon a  
 16           child less than sixteen (16) years of age; or

17           (c) *Abuse does not include physical discipline of a child when it is reasonable*  
 18           *and moderate and is inflicted by a parent, guardian, or person in a position*  
 19           *of authority or special trust for purposes of restraining or correcting the*  
 20           *child and does not otherwise constitute cruelty;*

21           (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.  
 22           675(11);

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

25           (a) The parent has not attempted or has not had contact with the child for a period  
 26           of not less than ninety (90) days;

27           (b) The parent is incarcerated and will be unavailable to care for the child for a

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

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

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

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

- 1 (e) Community service; and
- 2 (f) Rehabilitative interventions such as family counseling, substance abuse  
3 treatment, restorative justice programs, and behavioral or mental health  
4 treatment;
- 5 (32) "Habitual runaway" means any child who has been found by the court to have been  
6 absent from his or her place of lawful residence without the permission of his or her  
7 custodian for at least three (3) days during a one (1) year period;
- 8 (33) "Habitual truant" means any child who has been found by the court to have been  
9 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a  
10 one (1) year period;
- 11 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or  
12 public facility, health care facility, or part thereof, which is approved by the cabinet  
13 to treat children;
- 14 (35) "Independent living" means those activities necessary to assist a committed child to  
15 establish independent living arrangements;
- 16 (36) "Informal adjustment" means an agreement reached among the parties, with  
17 consultation, but not the consent, of the victim of the crime or other persons  
18 specified in KRS 610.070 if the victim chooses not to or is unable to participate,  
19 after a petition has been filed, which is approved by the court, that the best interest  
20 of the child would be served without formal adjudication and disposition;
- 21 (37) "Intentionally" means, with respect to a result or to conduct described by a statute  
22 which defines an offense, that the actor's conscious objective is to cause that result  
23 or to engage in that conduct;
- 24 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that  
25 the program developed on the child's behalf is no more harsh, hazardous, or  
26 intrusive than necessary; or involves no restrictions on physical movements nor  
27 requirements for residential care except as reasonably necessary for the protection

1 of the child from physical injury; or protection of the community, and is conducted  
2 at the suitable available facility closest to the child's place of residence to allow for  
3 appropriate family engagement;

4 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS  
5 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

6 (40) "Near fatality" means an injury that, as certified by a physician, places a child in  
7 serious or critical condition;

8 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;

9 **(42) "Neglected child" means a child whose health or welfare is harmed or threatened**  
10 **with harm when:**

11 **(a) His or her parent, guardian, person in a position of authority or a position**  
12 **of special trust, as defined in KRS 532.045, or other person exercising**  
13 **custodial control or supervision of the child:**

14 **1. Inflicts or allows to be inflicted upon the child emotional injury as**  
15 **defined in this section by other than accidental means;**

16 **2. 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 substance use disorder as**  
19 **defined in KRS 222.005;**

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

23 **4. Fails to protect a child from exposure to the use, possession, sale, or**  
24 **manufacture of illegal drugs or illegal activities;**

25 **5. Exposes a child prenatally to chronic or severe use of alcohol or any**  
26 **controlled substance;**

27 **6. Abandons the child;**



- 1            7. Does not provide the child with adequate care, supervision, food,  
2            clothing, shelter, and education or medical care necessary for the  
3            child's well-being when financially able to do so or offered financial  
4            or other means to do so. A parent or other person exercising custodial  
5            control or supervision of the child legitimately practicing the person's  
6            religious beliefs shall not be considered a negligent parent solely  
7            because of failure to provide specified medical treatment for a child  
8            for that reason alone. This exception shall not preclude a court from  
9            ordering necessary medical services for a child; or
- 10          8. Fails to make sufficient progress toward identified goals as set forth in  
11          the court-approved case plan to allow for the safe return of the child to  
12          the parent that results in the child remaining committed to the cabinet  
13          and remaining in foster care for fifteen (15) cumulative months out of  
14          forty-eight (48) months; or
- 15          (b) His or her parent, guardian, or custodian is unable to discharge his or her  
16          responsibilities to and for the child because of incarceration;

17          ~~(43)~~~~(42)~~ "Nonoffender" means a child alleged to be dependent, neglected, or abused  
18          and who has not been otherwise charged with a status or public offense;

19          ~~(44)~~~~(43)~~ "Nonsecure facility" means a facility which provides its residents access to  
20          the surrounding community and which does not rely primarily on the use of  
21          physically restricting construction and hardware to restrict freedom;

22          ~~(45)~~~~(44)~~ "Nonsecure setting" means a nonsecure facility or a residential home,  
23          including a child's own home, where a child may be temporarily placed pending  
24          further court action. Children before the court in a county that is served by a state  
25          operated secure detention facility, who are in the detention custody of the  
26          Department of Juvenile Justice, and who are placed in a nonsecure alternative by  
27          the Department of Juvenile Justice, shall be supervised by the Department of

1 Juvenile Justice;

2 ~~(46)~~~~((45))~~ "Out-of-home placement" means a placement other than in the home of a  
3 parent, relative, or guardian, in a boarding home, clinical treatment facility,  
4 community-based facility, detention facility, emergency shelter, fictive kin home,  
5 foster family home, hospital, nonsecure facility, physically secure facility,  
6 residential treatment facility, or youth alternative center;

7 ~~(47)~~~~((46))~~ "Parent" means the biological or adoptive mother or father of a child;

8 ~~(48)~~~~((47))~~ "Person exercising custodial control or supervision" means a person or agency  
9 that has assumed the role and responsibility of a parent or guardian for the child, but  
10 that does not necessarily have legal custody of the child;

11 ~~(49)~~~~((48))~~ "Petition" means a verified statement, setting forth allegations in regard to the  
12 child, which initiates formal court involvement in the child's case;

13 ~~(50)~~~~((49))~~ "Physical injury" means substantial physical pain or any impairment of  
14 physical condition that is likely to cause death or serious or protracted  
15 disfigurement, or protracted loss or impairment of the function of any bodily  
16 organ;

17 ~~(51)~~~~((50))~~ "Physically secure facility" means a facility that relies primarily on the use of  
18 construction and hardware such as locks, bars, and fences to restrict freedom;

19 ~~(52)~~~~((51))~~ "Public offense action" means an action, excluding contempt, brought in the  
20 interest of a child who is accused of committing an offense under KRS Chapter 527  
21 or a public offense which, if committed by an adult, would be a crime, whether the  
22 same is a felony, misdemeanor, or violation, other than an action alleging that a  
23 child sixteen (16) years of age or older has committed a motor vehicle offense;

24 ~~(53)~~~~((52))~~ "Qualified mental health professional" means:

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

- 1 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or  
2 osteopathy, or a medical officer of the government of the United States while  
3 engaged in the practice of official duties, and who is certified or eligible to  
4 apply for certification by the American Board of Psychiatry and Neurology,  
5 Inc.;
- 6 (c) A psychologist with the health service provider designation, a psychological  
7 practitioner, a certified psychologist, or a psychological associate licensed  
8 under the provisions of KRS Chapter 319;
- 9 (d) A licensed registered nurse with a master's degree in psychiatric nursing from  
10 an accredited institution and two (2) years of clinical experience with  
11 mentally ill persons, or a licensed registered nurse with a bachelor's degree in  
12 nursing from an accredited institution who is certified as a psychiatric and  
13 mental health nurse by the American Nurses Association and who has three  
14 (3) years of inpatient or outpatient clinical experience in psychiatric nursing  
15 and who is currently employed by a hospital or forensic psychiatric facility  
16 licensed by the Commonwealth or a psychiatric unit of a general hospital, a  
17 private agency or company engaged in providing mental health services, or a  
18 regional comprehensive care center;
- 19 (e) A licensed clinical social worker licensed under the provisions of KRS  
20 335.100, or a certified social worker licensed under the provisions of KRS  
21 335.080 with three (3) years of inpatient or outpatient clinical experience in  
22 psychiatric social work and currently employed by a hospital or forensic  
23 psychiatric facility licensed by the Commonwealth, a psychiatric unit of a  
24 general hospital, a private agency or company engaged in providing mental  
25 health services, or a regional comprehensive care center;
- 26 (f) A marriage and family therapist licensed under the provisions of KRS  
27 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical

- 1 experience in psychiatric mental health practice and currently employed by a  
2 hospital or forensic psychiatric facility licensed by the Commonwealth, a  
3 psychiatric unit of a general hospital, a private agency or company engaged in  
4 providing mental health services, or a regional comprehensive care center;
- 5 (g) A professional counselor credentialed under the provisions of KRS 335.500 to  
6 335.599 with three (3) years of inpatient or outpatient clinical experience in  
7 psychiatric mental health practice and currently employed by a hospital or  
8 forensic facility licensed by the Commonwealth, a psychiatric unit of a  
9 general hospital, a private agency or company engaged in providing mental  
10 health services, or a regional comprehensive care center; or
- 11 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one  
12 (1) of the following requirements:
- 13 1. Provides documentation that he or she has completed a psychiatric  
14 residency program for physician assistants;
  - 15 2. Has completed at least one thousand (1,000) hours of clinical experience  
16 under a supervising physician, as defined by KRS 311.840, who is a  
17 psychiatrist and is certified or eligible for certification by the American  
18 Board of Psychiatry and Neurology, Inc.;
  - 19 3. Holds a master's degree from a physician assistant program accredited  
20 by the Accreditation Review Commission on Education for the  
21 Physician Assistant or its predecessor or successor agencies, is  
22 practicing under a supervising physician as defined by KRS 311.840,  
23 and:
    - 24 a. Has two (2) years of clinical experience in the assessment,  
25 evaluation, and treatment of mental disorders; or
    - 26 b. Has been employed by a hospital or forensic psychiatric facility  
27 licensed by the Commonwealth or a psychiatric unit of a general

1 hospital or a private agency or company engaged in the provision  
2 of mental health services or a regional community program for  
3 mental health and individuals with an intellectual disability for at  
4 least two (2) years; or

5 4. Holds a bachelor's degree, possesses a current physician assistant  
6 certificate issued by the board prior to July 15, 2002, is practicing under  
7 a supervising physician as defined by KRS 311.840, and:

8 a. Has three (3) years of clinical experience in the assessment,  
9 evaluation, and treatment of mental disorders; or

10 b. Has been employed by a hospital or forensic psychiatric facility  
11 licensed by the Commonwealth or a psychiatric unit of a general  
12 hospital or a private agency or company engaged in the provision  
13 of mental health services or a regional community program for  
14 mental health and individuals with an intellectual disability for at  
15 least three (3) years;

16 ~~(54)~~~~(53)~~ "Reasonable and prudent parent standard" has the same meaning as in 42  
17 U.S.C. sec. 675(10);

18 ~~(55)~~~~(54)~~ "Residential treatment facility" means a facility or group home with more  
19 than eight (8) beds designated by the Department of Juvenile Justice or the cabinet  
20 for the treatment of children;

21 ~~(56)~~~~(55)~~ "Retain in custody" means, after a child has been taken into custody, the  
22 continued holding of the child by a peace officer for a period of time not to exceed  
23 twelve (12) hours when authorized by the court or the court-designated worker for  
24 the purpose of making preliminary inquiries;

25 ~~(57)~~~~(56)~~ "Risk and needs assessment" means an actuarial tool scientifically proven to  
26 identify specific factors and needs that are related to delinquent and noncriminal  
27 misconduct;

1 ~~(58)~~~~(57)~~ "School personnel" means those certified persons under the supervision of the  
2 local public or private education agency;

3 ~~(59)~~~~(58)~~ "Secretary" means the secretary of the Cabinet for Health and Family  
4 Services;

5 ~~(60)~~~~(59)~~ "Secure juvenile detention facility" means any physically secure facility used  
6 for the secure detention of children other than any facility in which adult prisoners  
7 are confined;

8 ~~(61)~~~~(60)~~ "Serious physical injury" means physical injury which creates a substantial  
9 risk of death or which causes serious and prolonged disfigurement, prolonged  
10 impairment of health, or prolonged loss or impairment of the function of any bodily  
11 member or organ;

12 ~~(62)~~~~(61)~~ "Sexual abuse" includes but is not necessarily limited to any contacts or  
13 interactions in which the parent, guardian, person in a position of authority or  
14 special trust, as defined in KRS 532.045, or other person having custodial control or  
15 supervision of the child or responsibility for his or her welfare, uses or allows,  
16 permits, or encourages the use of the child for the purposes of the sexual  
17 stimulation of the perpetrator or another person;

18 ~~(63)~~~~(62)~~ "Sexual exploitation" includes but is not limited to a situation in which a  
19 parent, guardian, person in a position of authority or special trust, as defined in  
20 KRS 532.045, or other person having custodial control or supervision of a child or  
21 responsible for his or her welfare, allows, permits, or encourages the child to  
22 engage in an act which constitutes prostitution under Kentucky law; or a parent,  
23 guardian, person in a position of authority or special trust, as defined in KRS  
24 532.045, or other person having custodial control or supervision of a child or  
25 responsible for his or her welfare, allows, permits, or encourages the child to  
26 engage in an act of obscene or pornographic photographing, filming, or depicting of  
27 a child as provided for under Kentucky law;

1 ~~(64)~~~~((63))~~ "Social service worker" means any employee of the cabinet or any private  
2 agency designated as such by the secretary of the cabinet or a social worker  
3 employed by a county or city who has been approved by the cabinet to provide,  
4 under its supervision, services to families and children;

5 ~~(65)~~~~((64))~~ "Staff secure facility for residential treatment" means any setting which  
6 assures that all entrances and exits are under the exclusive control of the facility  
7 staff, and in which a child may reside for the purpose of receiving treatment;

8 ~~(66)~~~~((65))~~ (a) "Status offense action" is any action brought in the interest of a child  
9 who is accused of committing acts, which if committed by an adult, would not  
10 be a crime. Such behavior shall not be considered criminal or delinquent and  
11 such children shall be termed status offenders. Status offenses shall include:

- 12 1. Beyond the control of school or beyond the control of parents;
- 13 2. Habitual runaway;
- 14 3. Habitual truant; and
- 15 4. Alcohol offenses as provided in KRS 244.085.

16 (b) Status offenses shall not include violations of state or local ordinances which  
17 may apply to children such as a violation of curfew;

18 ~~(67)~~~~((66))~~ "Take into custody" means the procedure by which a peace officer or other  
19 authorized person initially assumes custody of a child. A child may be taken into  
20 custody for a period of time not to exceed two (2) hours;

21 ~~(68)~~~~((67))~~ "Transitional living support" means all benefits to which an eligible youth is  
22 entitled upon being granted extended or reinstated commitment to the cabinet by the  
23 court;

24 ~~(69)~~~~((68))~~ "Transition plan" means a plan that is personalized at the direction of the  
25 youth that:

26 (a) Includes specific options on housing, health insurance, education, local  
27 opportunities for mentors and continuing support services, and workforce

1 supports and employment services; and

2 (b) Is as detailed as the youth may elect;

3 (70)~~[(69)]~~ "Valid court order" means a court order issued by a judge to a child alleged or  
4 found to be a status offender:

5 (a) Who was brought before the court and made subject to the order;

6 (b) Whose future conduct was regulated by the order;

7 (c) Who was given written and verbal warning of the consequences of the  
8 violation of the order at the time the order was issued and whose attorney or  
9 parent or legal guardian was also provided with a written notice of the  
10 consequences of violation of the order, which notification is reflected in the  
11 record of the court proceedings; and

12 (d) Who received, before the issuance of the order, the full due process rights  
13 guaranteed by the Constitution of the United States;

14 (71)~~[(70)]~~ "Violation" means any offense, other than a traffic infraction, for which a  
15 sentence of a fine only can be imposed;

16 (72)~~[(71)]~~ "Youth alternative center" means a nonsecure facility, approved by the  
17 Department of Juvenile Justice, for the detention of juveniles, both prior to  
18 adjudication and after adjudication, which meets the criteria specified in KRS  
19 15A.320; and

20 (73)~~[(72)]~~ "Youthful offender" means any person regardless of age, transferred to Circuit  
21 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently  
22 convicted in Circuit Court.

23 ➔Section 2. KRS 620.040 is amended to read as follows:

24 (1) (a) Upon receipt of a report alleging abuse ~~for neglect~~ by a parent, guardian,  
25 fictive kin, person in a position of authority, person in a position of special  
26 trust, or person exercising custodial control or supervision, pursuant to KRS  
27 620.030(1) or (2), or a report alleging a child is a victim of human trafficking



1           pursuant to KRS 620.030(3), the recipient of the report shall immediately  
2           notify the cabinet or its designated representative, the local law enforcement  
3           agency or the Department of Kentucky State Police, and the Commonwealth's  
4           or county attorney of the receipt of the report unless they are the reporting  
5           source.

6           (b) Based upon the allegation in the report, the cabinet shall immediately make an  
7           initial determination as to the risk of harm and immediate safety of the child.  
8           Based upon the level of risk determined, the cabinet shall investigate the  
9           allegation or accept the report for an assessment of family needs and, if  
10          appropriate, may provide or make referral to any community-based services  
11          necessary to reduce risk to the child and to provide family support. A report of  
12          sexual abuse or human trafficking of a child shall be considered high risk and  
13          shall not be referred to any other community agency.

14          (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and  
15          holidays, make a written report to the Commonwealth's or county attorney  
16          and the local enforcement agency or the Department of Kentucky State Police  
17          concerning the action that has been taken on the investigation.

18          (d) If the report alleges abuse ~~for neglect~~ by someone other than a parent,  
19          guardian, fictive kin, person in a position of authority, person in a position of  
20          special trust, or person exercising custodial control or supervision, or the  
21          human trafficking of a child, the cabinet shall immediately notify the  
22          Commonwealth's or county attorney and the local law enforcement agency or  
23          the Department of Kentucky State Police.

24          (2) (a) Upon receipt of a report alleging **neglect or** dependency pursuant to KRS  
25          620.030(1) and (2), the recipient shall immediately notify the cabinet or its  
26          designated representative.

27          (b) Based upon the allegation in the report, the cabinet shall immediately make an

1 initial determination as to the risk of harm and immediate safety of the child.  
2 Based upon the level of risk, the cabinet shall investigate the allegation or  
3 accept the report for an assessment of family needs and, if appropriate, may  
4 provide or make referral to any community-based services necessary to reduce  
5 risk to the child and to provide family support. A report of sexual abuse or  
6 human trafficking of a child shall be considered high risk and shall not be  
7 referred to any other community agency.

8 (c) The cabinet need not notify the local law enforcement agency or the  
9 Department of Kentucky State Police or county attorney or Commonwealth's  
10 attorney of reports made under this subsection unless the report involves the  
11 human trafficking of a child, in which case the notification shall be required.

12 (3) If the cabinet or its designated representative receives a report of abuse by a person  
13 other than a parent, guardian, fictive kin, person in a position of authority, person in  
14 a position of special trust, or other person exercising custodial control or  
15 supervision of a child, it shall immediately notify the local law enforcement agency  
16 or the Department of Kentucky State Police and the Commonwealth's or county  
17 attorney of the receipt of the report and its contents, and they shall investigate the  
18 matter. The cabinet or its designated representative shall participate in an  
19 investigation of noncustodial physical abuse or neglect at the request of the local  
20 law enforcement agency or the Department of Kentucky State Police. The cabinet  
21 shall participate in all investigations of reported or suspected sexual abuse or human  
22 trafficking of a child.

23 (4) School personnel or other persons listed in KRS 620.030(2) do not have the  
24 authority to conduct internal investigations in lieu of the official investigations  
25 outlined in this section.

26 (5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its  
27 designated representative cannot gain admission to the location of the child, a

1 search warrant shall be requested from, and may be issued by, the judge to the  
2 appropriate law enforcement official upon probable cause that the child is  
3 dependent, neglected, or abused. If, pursuant to a search under a warrant, a  
4 child is discovered and appears to be in imminent danger, the child may be  
5 removed by the law enforcement officer.

6 (b) If a child who is in a hospital or under the immediate care of a physician  
7 appears to be in imminent danger if he or she is returned to the persons having  
8 custody of him or her, the physician or hospital administrator may hold the  
9 child without court order, provided that a request is made to the court for an  
10 emergency custody order at the earliest practicable time, not to exceed  
11 seventy-two (72) hours.

12 (c) Any appropriate law enforcement officer may take a child into protective  
13 custody and may hold that child in protective custody without the consent of  
14 the parent or other person exercising custodial control or supervision if there  
15 exist reasonable grounds for the officer to believe that the child is in danger of  
16 imminent death or serious physical injury, is being sexually abused, or is a  
17 victim of human trafficking and that the parents or other person exercising  
18 custodial control or supervision are unable or unwilling to protect the child.  
19 The officer or the person to whom the officer entrusts the child shall, within  
20 twelve (12) hours of taking the child into protective custody, request the court  
21 to issue an emergency custody order.

22 (d) When a law enforcement officer, hospital administrator, or physician takes a  
23 child into custody without the consent of the parent or other person exercising  
24 custodial control or supervision, he or she shall provide written notice to the  
25 parent or other person stating the reasons for removal of the child. Failure of  
26 the parent or other person to receive notice shall not, by itself, be cause for  
27 civil or criminal liability.

- 1 (e) 1. If a report includes a child fatality or near fatality, and the law  
2 enforcement officer has reasonable grounds to believe any parent or  
3 person exercising custodial control or supervision of the child was under  
4 the influence of alcohol or drugs at the time the fatality or near fatality  
5 occurred, the law enforcement officer shall request a test of blood,  
6 breath, or urine from that person.
- 7 2. If, after making the request, consent is not given for the test of blood,  
8 breath, or urine, a search warrant shall be requested from and may be  
9 issued by the judge to the appropriate law enforcement official upon  
10 probable cause that a child fatality or near fatality has occurred and that  
11 the person exercising custodial control or supervision of the child at the  
12 time of the fatality or near fatality was under the influence.
- 13 3. Any test requested under this section shall be conducted pursuant to the  
14 testing procedures and requirements in KRS 189A.103.
- 15 (6) To the extent practicable and when in the best interest of a child alleged to have  
16 been abused, interviews with the child shall be conducted at a children's advocacy  
17 center.
- 18 (7) (a) One (1) or more multidisciplinary teams may be established in every county  
19 or group of contiguous counties.
- 20 (b) Membership of the multidisciplinary team shall include but shall not be  
21 limited to social service workers employed by the Cabinet for Health and  
22 Family Services and law enforcement officers. Additional team members may  
23 include Commonwealth's and county attorneys, children's advocacy center  
24 staff, mental health professionals, medical professionals, victim advocates  
25 including advocates for victims of human trafficking, educators, and other  
26 related professionals, as deemed appropriate.
- 27 (c) The multidisciplinary team shall review child sexual abuse cases and child

1 human trafficking cases involving commercial sexual activity referred by  
2 participating professionals, including those in which the alleged perpetrator  
3 does not have custodial control or supervision of the child or is not  
4 responsible for the child's welfare. The purpose of the multidisciplinary team  
5 shall be to review investigations, assess service delivery, and to facilitate  
6 efficient and appropriate disposition of cases through the criminal justice  
7 system.

8 (d) The team shall hold regularly scheduled meetings if new reports of sexual  
9 abuse or child human trafficking cases involving commercial sexual activity  
10 are received or if active cases exist. At each meeting, each active case shall be  
11 presented and the agencies' responses assessed.

12 (e) The multidisciplinary team shall provide an annual report to the public of  
13 nonidentifying case information to allow assessment of the processing and  
14 disposition of child sexual abuse cases and child human trafficking cases  
15 involving commercial sexual activity.

16 (f) Multidisciplinary team members and anyone invited by the multidisciplinary  
17 team to participate in a meeting shall not divulge case information, including  
18 information regarding the identity of the victim or source of the report. Team  
19 members and others attending meetings shall sign a confidentiality statement  
20 that is consistent with statutory prohibitions on disclosure of this information.

21 (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660,  
22 develop a local protocol consistent with the model protocol issued by the  
23 Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local  
24 team shall submit the protocol to the commission for review and approval.

25 (h) The multidisciplinary team review of a case may include information from  
26 reports generated by agencies, organizations, or individuals that are  
27 responsible for investigation, prosecution, or treatment in the case, KRS

1           610.320 to KRS 610.340 notwithstanding.

2           (i) To the extent practicable, multidisciplinary teams shall be staffed by the local  
3           children's advocacy center.

4           (8) Nothing in this section shall limit the cabinet's investigatory authority under KRS  
5           620.050 or any other obligation imposed by law.

6           ➔Section 3. KRS 620.072 is amended to read as follows:

7           (1) If the cabinet's initial determination as to the risk of harm to and immediate safety  
8           of an abused ~~for neglected~~ child as defined in KRS 600.020 requires an  
9           investigation pursuant to administrative regulations promulgated by the cabinet,  
10          including consideration of information on the nature and extent of a present danger  
11          or threat of danger to the child or cabinet staff, and if the investigation requires a  
12          visit to the residence or location where the reported abuse ~~for neglect~~ occurred, the  
13          cabinet shall make the visit unannounced, in addition to any other actions taken to  
14          protect the child.

15          (2) If the initial visit is necessary, after it is completed, the cabinet shall incorporate  
16          unannounced visits with any necessary scheduled visits until the welfare of the  
17          child has been safeguarded in accordance with administrative regulations  
18          promulgated by the cabinet.

19          (3) If there is reason to believe a child is in imminent danger, or if a parent or caretaker  
20          of a child refuses the cabinet entry to a child's home or refuses to allow a child to be  
21          interviewed, the cabinet may request assistance:

22                  (a) From law enforcement; or

23                  (b) Through a request for a court order pursuant to KRS 620.040(5)(a).

24          (4) A school or a child-care provider shall provide the cabinet access to a child subject  
25          to an investigation without parental consent.

26          ➔Section 4. KRS 620.080 is amended to read as follows:

27          (1) Unless waived by the child and his parent or other person exercising custodial

1 control or supervision, a temporary removal hearing shall be held:

2 (a) Within seventy-two (72) hours, excluding weekends and holidays, of the time  
3 when an emergency custody order is issued or when a child is taken into  
4 custody without the consent of his parent or other person exercising custodial  
5 control or supervision; and

6 (b) In cases commenced by the filing of a petition, within ten (10) days of the  
7 date of filing.

8 (2) At a temporary removal hearing, the court shall determine whether there are  
9 reasonable grounds to believe that the child would be dependent, neglected or  
10 abused if returned to or left in the custody of his parent or other person exercising  
11 custodial control or supervision even though it is not proved conclusively who has  
12 perpetrated the dependency, neglect, or abuse. For good cause, the court may allow  
13 hearsay evidence. The Commonwealth shall bear the burden of proof by **clear and**  
14 **convincing**~~[a preponderance of the]~~ evidence and if the Commonwealth should fail  
15 to establish same, the child shall be released to or retained in the custody of his  
16 parent or other person exercising custodial control or supervision.

17 ➔Section 5. KRS 620.090 is amended to read as follows:

18 (1) If, after completion of the temporary removal hearing, the court finds there are  
19 reasonable grounds to believe the child is dependent, neglected, or abused, the court  
20 **may**~~[shall]:~~

21 (a) Issue an order for temporary removal and shall grant temporary custody to the  
22 cabinet or other appropriate person or agency. Preference shall be given to  
23 available and qualified relatives of the child considering the wishes of the  
24 parent or other person exercising custodial control or supervision, if known.  
25 The order shall state the specific reasons for removal and show that alternative  
26 less restrictive placements and services have been considered. The court may  
27 recommend a placement for the child;

- 1 (b) Inquire as to an existing child support order; and
- 2 (c) If there is no existing order, or if the order is to be amended, the court shall:
- 3 1. Make specific findings, either written or on the record, as to:
- 4 a. The child support obligation in the best interest of the child;
- 5 b. The action to be taken by the payee, payor, or any other party by
- 6 making an application for services to the child support office who
- 7 shall take all appropriate action; or
- 8 c. Setting a hearing as soon as practicable; and
- 9 2. Require proper service before establishing a new child support order.
- 10 (2) In placing a child under an order of temporary custody, the cabinet or its designee
- 11 shall use the least restrictive appropriate placement available. Preference shall be
- 12 given to available and qualified relatives of the child considering the wishes of the
- 13 parent or other person exercising custodial control or supervision, if known. The
- 14 child may also be placed in a facility or program operated or approved by the
- 15 cabinet, including a foster home, or any other appropriate available placement.
- 16 However, under no circumstance shall the child be placed in a home, facility, or
- 17 other shelter with a child who has been committed to the Department of Juvenile
- 18 Justice for commission of a sex crime as that term is defined in KRS 17.500, unless
- 19 the child committed for the commission of a sex crime is kept segregated from
- 20 other children in the home, facility, or other shelter that have not been committed
- 21 for the commission of a sex crime.
- 22 (3) If the court finds there are not reasonable grounds to believe the child is dependent,
- 23 neglected, or abused, or if no action is taken within seventy-two (72) hours, the
- 24 emergency custody order shall be dissolved automatically and the cabinet or its
- 25 designee shall return the child to the parent or other person exercising custodial
- 26 control or supervision. A request for a continuance of the hearing by the parent or
- 27 other person exercising custodial control or supervision shall constitute action



1 precluding automatic dissolution of the emergency custody order.

2 (4) When the court issues a temporary order for the custody of a child, the court may  
3 order that, within two (2) weeks, arrangements be made for the child to receive a  
4 thorough medical, visual, and dental examination by a professional authorized by  
5 the Kentucky Revised Statutes to conduct such examinations. The costs of the  
6 examination shall be paid by the cabinet.

7 (5) The child shall remain in temporary custody with the cabinet for a period of time  
8 not to exceed forty-five (45) days from the date of the removal from his home. The  
9 court shall conduct the adjudicatory hearing and shall make a final disposition  
10 within forty-five (45) days of the removal of the child. The court may extend such  
11 time after making written findings establishing the need for the extension and after  
12 finding that the extension is in the child's best interest.

13 (6) If custody is granted to a grandparent of the child pursuant to this section, the court  
14 shall consider granting reasonable visitation rights to any other grandparent of the  
15 child if the court determines the grandparent has a significant and viable  
16 relationship with the child as established in KRS 405.021(1)(c).

17 ➔Section 6. KRS 625.090 is amended to read as follows:

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

21 (a) 1. The child has been adjudged to be an abused ~~for neglected~~ child, as  
22 defined in KRS 600.020(1), by a court of competent jurisdiction;

23 2. The child is found to be an abused ~~for neglected~~ child, as defined in  
24 KRS 600.020(1), by the Circuit Court in this proceeding;

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

27 a. Was prescribed and properly using medication for a legitimate

- 1                   medical condition as directed by a health care practitioner that may  
2                   have led to the neonatal abstinence syndrome;
- 3                   b.    Is currently, or within ninety (90) days after the birth, enrolled in  
4                   and maintaining substantial compliance with both a substance  
5                   abuse treatment or recovery program and a regimen of prenatal  
6                   care or postnatal care as recommended by her health care  
7                   practitioner throughout the remaining term of her pregnancy or the  
8                   appropriate time after her pregnancy; or
- 9                   c.    In the absence of a prescription for the treatment of a legitimate  
10                  medical condition, agrees, prior to discharge from the hospital, to  
11                  participate in a court-ordered assessment by a drug treatment  
12                  provider and the assigning of a certified peer support specialist for  
13                  referral to appropriate treatment, and agrees to participate in  
14                  treatment which shall commence within ninety (90) days after the  
15                  birth; or
- 16                  4.    The parent has been convicted of a criminal charge relating to the  
17                  physical or sexual abuse ~~for neglect~~ of any child and that physical or  
18                  sexual abuse~~, neglect, or emotional injury~~ to the child named in the  
19                  present termination action is likely to occur if the parental rights are not  
20                  terminated;
- 21                  (b)   1.    The Cabinet for Health and Family Services has filed a petition with the  
22                  court pursuant to KRS 620.180 or 625.050; or
- 23                  2.    A child-placing agency licensed by the cabinet, any county or  
24                  Commonwealth's attorney, or a parent has filed a petition with the court  
25                  under KRS 625.050; and
- 26                  (c)   Termination would be in the best interest of the child.
- 27                  (2)   No termination of parental rights shall be ordered unless the Circuit Court also finds

1 by clear and convincing evidence the existence of one (1) or more of the following  
2 grounds:

- 3 (a) That the parent has abandoned the child for a period of not less than ninety  
4 (90) days;
- 5 (b) That the parent has inflicted or allowed to be inflicted upon the child, by other  
6 than accidental means, serious physical injury;
- 7 (c) That the parent has continuously or repeatedly inflicted or allowed to be  
8 inflicted upon the child, by other than accidental means, physical injury or  
9 emotional harm;
- 10 (d) That the parent has been convicted of a felony that involved the infliction of  
11 serious physical injury to any child;
- 12 (e) That the parent, for a period of not less than six (6) months, has continuously  
13 or repeatedly failed or refused to provide or has been substantially incapable  
14 of providing essential parental care and protection for the child and that there  
15 is no reasonable expectation of improvement in parental care and protection,  
16 considering the age of the child;
- 17 (f) That the parent has caused or allowed the child to be sexually abused or  
18 exploited;
- 19 (g) That the parent, for reasons other than poverty alone, has continuously or  
20 repeatedly failed to provide or is incapable of providing essential food,  
21 clothing, shelter, medical care, or education reasonably necessary and  
22 available for the child's well-being and that there is no reasonable expectation  
23 of significant improvement in the parent's conduct in the immediately  
24 foreseeable future, considering the age of the child;
- 25 (h) That:
- 26 1. The parent's parental rights to another child have been involuntarily  
27 terminated;

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

- 1 (d) The efforts and adjustments the parent has made in his circumstances,  
2 conduct, or conditions to make it in the child's best interest to return him to  
3 his home within a reasonable period of time, considering the age of the child;
- 4 (e) The physical, emotional, and mental health of the child and the prospects for  
5 the improvement of the child's welfare if termination is ordered; and
- 6 (f) The payment or the failure to pay a reasonable portion of substitute physical  
7 care and maintenance if financially able to do so.
- 8 (4) If the child has been placed with the cabinet, the parent may present testimony  
9 concerning the reunification services offered by the cabinet and whether additional  
10 services would be likely to bring about lasting parental adjustment enabling a return  
11 of the child to the parent.
- 12 (5) If the parent proves by a preponderance of the evidence that the child will not  
13 continue to be an abused child or neglected child as defined in KRS 600.020~~{(4)}~~ if  
14 returned to the parent the court in its discretion may determine not to terminate  
15 parental rights.
- 16 (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter  
17 findings of fact, conclusions of law, and a decision as to each parent-respondent  
18 within thirty (30) days either:
- 19 (a) Terminating the right of the parent; or
- 20 (b) Dismissing the petition and stating whether the child shall be returned to the  
21 parent or shall remain in the custody of the state.
- 22 ➔Section 7. KRS 620.060 is amended to read as follows:
- 23 (1) The court for the county where the child ordinarily resides or will reside or the  
24 county where the child is present may issue an ex parte emergency custody order  
25 when it appears to the court that removal is in the best interest of the child and that  
26 there are reasonable grounds to believe, as supported by affidavit or by recorded  
27 sworn testimony, that one (1) or more of the following conditions exist and that the

- 1 parents or other person exercising custodial control or supervision are unable or  
2 unwilling to protect the child:
- 3 (a) The child is in danger of imminent death or serious physical injury or is being  
4 sexually abused;
- 5 (b) The parent has repeatedly inflicted or allowed to be inflicted by other than  
6 accidental means physical injury~~[-or emotional injury]~~. This condition shall  
7 not include reasonable and ordinary discipline recognized in the community  
8 where the child lives, as long as reasonable and ordinary discipline does not  
9 result in abuse or neglect as defined in KRS 600.020~~[(1)]~~; or
- 10 (c) The child is in immediate danger due to the parent's failure or refusal to  
11 provide for the safety or needs of the child.
- 12 (2) Custody may be placed with a relative taking into account the wishes of the  
13 custodial parent and child or any other appropriate person or agency including the  
14 cabinet.
- 15 (3) An emergency custody order shall be effective no longer than seventy-two (72)  
16 hours, exclusive of weekends and holidays, unless there is a temporary removal  
17 hearing with oral or other notice to the county attorney and the parent or other  
18 person exercising custodial control or supervision of the child, to determine if the  
19 child should be held for a longer period. The seventy-two (72) hour period also may  
20 be extended or delayed upon the waiver or request of the child's parent or other  
21 person exercising custodial control or supervision.
- 22 (4) Any person authorized to serve process shall serve the parent or other person  
23 exercising custodial control or supervision with a copy of the emergency custody  
24 order. If such person cannot be found, the sheriff shall make a good faith effort to  
25 notify the nearest known relative, neighbor, or other person familiar with the child.
- 26 (5) Within seventy-two (72) hours of the taking of a child into custody without the  
27 consent of his parent or other person exercising custodial control or supervision, a

1 petition shall be filed pursuant to this chapter.

2 (6) Nothing herein shall preclude the issuance of arrest warrants pursuant to the Rules  
3 of Criminal Procedure.

4 ➔Section 8. KRS 15.900 is amended to read as follows:

5 As used in KRS 15.900 to 15.940:

6 (1) "Abused child"~~for neglected child~~ has the same meaning as in KRS 600.020;

7 (2) "Child" means a person under eighteen (18) years of age;

8 (3) "Child sexual abuse and exploitation" means harm to a child's health or welfare by  
9 any person, responsible or not for the child's health or welfare, which harm occurs  
10 or is threatened through nonaccidental sexual contact which includes violations of  
11 KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320, and 531.370;

12 (4) "Community resource organization" means an organization which meets the criteria  
13 described in KRS 15.940;

14 **(5) "Neglected child" has the same meaning as in KRS 600.020;**

15 ~~(6)~~~~(5)~~ "State board" means the State Child Abuse and Neglect Prevention Board  
16 created in KRS 15.905;

17 ~~(7)~~~~(6)~~ "Prevention program" means a system of direct provision of child sexual  
18 abuse and exploitation or child abuse and neglect prevention services to a child,  
19 parent, or guardian, but shall not include research programs related to prevention of  
20 child sexual abuse and exploitation or child abuse and neglect; and

21 ~~(8)~~~~(7)~~ "Trust fund" means the child victims' trust fund established in the Office of  
22 the State Treasurer.

23 ➔Section 9. KRS 214.160 is amended to read as follows:

24 (1) Every physician and every other person legally permitted to engage in attendance  
25 upon a pregnant woman in this state shall take or cause to be taken from the woman  
26 a specimen of blood for serological test for syphilis as soon as he is engaged to  
27 attend the woman and has reasonable grounds for suspecting that pregnancy exists.

1 If the woman is in labor at the time the diagnosis of pregnancy is made, which may  
2 make it inadvisable to obtain a blood specimen at that time, the specimen shall be  
3 obtained within ten (10) days after delivery. The specimen of blood shall be  
4 submitted to the laboratory of the Cabinet for Health and Family Services or a  
5 laboratory approved by the cabinet for the purpose of having made a serological test  
6 for syphilis. The test shall be of a type approved by the Cabinet for Health and  
7 Family Services.

8 (2) The Cabinet for Health and Family Services shall, as often as necessary, publish a  
9 list of the five (5) most frequently abused substances, including alcohol, by  
10 pregnant women in the Commonwealth. Any physician and any other person legally  
11 permitted to engage in attendance upon a pregnant woman in this state may perform  
12 a screening for alcohol or substance dependency or abuse, including a  
13 comprehensive history of such behavior. Any physician may administer a  
14 toxicology test to a pregnant woman under the physician's care within eight (8)  
15 hours after delivery to determine whether there is evidence that she has ingested  
16 alcohol, a controlled substance, or a substance identified on the list provided by the  
17 cabinet, or if the woman has obstetrical complications that are a medical indication  
18 of possible use of any such substance for a nonmedical purpose.

19 (3) Any physician or person legally permitted to engage in attendance upon a pregnant  
20 woman may administer to each newborn infant born under that person's care a  
21 toxicology test to determine whether there is evidence of prenatal exposure to  
22 alcohol, a controlled substance, or a substance identified on the list provided by the  
23 Cabinet for Health and Family Services, if the attending person has reason to  
24 believe, based on a medical assessment of the mother or the infant, that the mother  
25 used any such substance for a nonmedical purpose during the pregnancy.

26 (4) The circumstances surrounding any positive toxicology finding shall be evaluated  
27 by the attending person to determine if abuse or neglect of the infant, as defined



1 under KRS 600.020~~[(1)]~~, shall be reported to the state's child protective services  
2 agency.

3 (5) An infant affected by substance abuse withdrawal symptoms resulting from prenatal  
4 drug exposure or fetal alcohol spectrum disorder shall be reported to the state's  
5 child protective services agency in accordance with 42 U.S.C. sec. 5106a.

6 (6) No prenatal screening for alcohol or other substance abuse or positive toxicology  
7 finding shall be used as prosecutorial evidence.

8 (7) No person shall conduct or cause to be conducted any toxicological test pursuant to  
9 this section on any pregnant woman without first informing the pregnant woman of  
10 the purpose of the test.

11 (8) Every physician or other person legally permitted to engage in attendance upon a  
12 pregnant woman in the Commonwealth shall take or cause to be taken from the  
13 woman a specimen of blood which shall be submitted for the purpose of serologic  
14 testing for the presence of hepatitis B surface antigen to a laboratory certified by the  
15 United States Department for Health and Human Services pursuant to Section 333  
16 of the Public Health Service Act (42 U.S.C. sec. 263a), as revised by the Clinical  
17 Laboratory Improvement Amendments (CLIA), Pub.L. 100-578.

18 (9) (a) Every physician or other person legally permitted to engage in attendance  
19 upon a pregnant woman in the Commonwealth shall take or cause to be taken  
20 from the woman a specimen of blood which shall be submitted for the  
21 purpose of serologic testing for the presence of hepatitis C virus antibodies  
22 and RNA in the blood.

23 (b) The results of this testing shall be recorded by the physician or other person  
24 legally permitted to engage in attendance upon a pregnant woman in the  
25 Commonwealth, in:

- 26 1. The permanent medical record of the woman; and
- 27 2. The permanent medical record of the child or children she was pregnant

1 with at the time of the testing after the child or children are born.

2 (c) If the woman receives a test result that shows she is positive for hepatitis C  
3 virus antibodies or RNA, the physician or other person legally permitted to  
4 engage in attendance upon a pregnant woman in the Commonwealth shall  
5 orally inform and clearly document the woman or the legal guardian of the  
6 child or children she was pregnant with at the time of the testing, that it is  
7 recommended that serologic testing for the presence of hepatitis C virus  
8 antibodies and confirmation RNA in the blood be conducted on the child or  
9 children she was pregnant with at the time of the testing at the twenty-four  
10 (24) month recommended well baby pediatric check-up.

11 ➔Section 10. KRS 199.473 is amended to read as follows:

12 (1) All persons other than a child-placing agency or institution, the department, or  
13 persons excepted by KRS 199.470(4) who wish to place or receive a child shall  
14 make written application to the secretary for permission to place or receive a child.

15 (2) Prior to the approval of an application to place or receive a child, the fee required  
16 pursuant to subsection (13) of this section shall be paid and a home study shall be  
17 completed. The purpose of the home study shall be to review the background of the  
18 applicant and determine the suitability of the applicant to receive a child, taking into  
19 account at all times the best interest of the child for whom application to receive has  
20 been made.

21 (3) (a) The home study shall be made in accordance with administrative regulations  
22 promulgated by the cabinet in accordance with KRS Chapter 13A.

23 (b) The cabinet shall conduct the home study for an applicant whose total gross  
24 income is equal to or less than two hundred fifty percent (250%) of the federal  
25 poverty level guidelines issued each year by the federal government, unless  
26 the applicant submits a written request for the home study to be conducted by  
27 a licensed child-placing agency or institution. Upon request, the cabinet shall

1           make information available to an applicant who does not meet the  
2           requirements of this paragraph to assist the applicant in obtaining a home  
3           study from a licensed child-placing agency approved to provide adoption  
4           services.

5           (c) A licensed child-placing agency approved to provide adoption services shall  
6           conduct the home study for an applicant whose gross total income is more  
7           than two hundred fifty percent (250%) of the federal poverty level guidelines  
8           issued each year by the federal government.

9           (d) Calculation of family size for this subsection shall include each child  
10          requested to be adopted.

11          (e) The portion of the home study pertaining to the home and family background  
12          shall be valid for one (1) year following the date of its completion by an  
13          adoption worker.

14          (4) The adoption worker making the home study shall make a finding in writing  
15          recommending either that the application be granted or that the application be  
16          denied. The recommendation of the adoption worker shall then be reviewed by the  
17          secretary.

18          (5) Based on the report and recommendation of the adoption worker making the home  
19          study, the secretary shall grant or refuse permission for the applicant to place or  
20          receive a child as early as practicable, but, in any case, the decision shall be made  
21          within sixty (60) days after the receipt of the application. In reaching a decision, the  
22          secretary shall be guided by the ability of the persons wishing to receive the child to  
23          give the child a suitable home, and shall at all times consider the best interest of the  
24          child from a financial, medical, psychological, and psychiatric standpoint.

25          (6) If the application is refused, the secretary shall in general terms furnish in writing  
26          the reasons for his or her refusal.

27          (7) Any person who seeks temporary custody of a child prior to the secretary's ruling

1 on an application for adoption shall file a petition seeking temporary custody, with  
2 a notice of intent to adopt, with the Circuit Court that will have jurisdiction of the  
3 adoption proceedings. The clerk of the court shall send a notice of the filing of the  
4 petition to the cabinet. A hearing on the petition shall occur no later than seventy-  
5 two (72) hours after the filing of the petition, excluding weekends and holidays.  
6 Proceedings under this subsection shall be incorporated into the court's adoption  
7 file. If the adoption is not finalized within six (6) months of the filing of the petition  
8 and notice of intent, the court shall conduct a hearing on the status and custody of  
9 the child.

10 (8) Upon a finding by the Circuit Court that the child should be placed prior to the  
11 secretary's ruling on the application, the Circuit Court may grant the applicant  
12 temporary custody of the child pending the decision of the secretary. Temporary  
13 custody shall not be granted to an applicant unless a background check, including  
14 but not limited to a criminal records check by the Justice and Public Safety Cabinet  
15 or the Administrative Office of the Courts and a background check of child abuse  
16 and neglect records maintained by the cabinet, has been submitted to and reviewed  
17 by the court. The background check required for temporary custody shall be part of  
18 the home study required under subsection (2) of this section. If the application is  
19 denied by the secretary, the temporary custody order shall be set aside and, upon  
20 motion of the cabinet or of the child's parent or parents, the Circuit Court may order  
21 the child returned to the biological parent or parents or the child's custody may be  
22 awarded to the cabinet, another licensed child-placing agency, or other individuals  
23 deemed appropriate by the court. This section shall not be deemed to permit the  
24 completion of any adoption proceeding without the approval of the secretary and  
25 compliance with KRS 615.030, if required.

26 (9) In any case where the cabinet refuses to approve the placement of a child for  
27 adoption when requested by the parent or parents of the child, or refuses the request

1 of any person or persons that a child be placed with that person or those persons for  
2 adoption, the decision of the secretary in so refusing shall be final unless within ten  
3 (10) days after notice of refusal, the biological or proposed adopting parent or  
4 parents shall appeal to the Circuit Court of the county in which the adoption is  
5 proposed. No placement shall be disapproved on the basis of the religious, ethnic,  
6 racial, or interfaith background of the adoptive applicant, if the placement is made  
7 with the consent of the parent.

8 (10) The cabinet may refuse to approve the placement of a child for adoption if the  
9 child's custodial parent is unwilling for the child to be placed for adoption with the  
10 proposed adoptive family. The cabinet may approve or deny the placement, in spite  
11 of the fact that the custodial parent or parents are unwilling to be interviewed by the  
12 cabinet or other approving entity, or if, after diligent efforts have been made, the  
13 adoption worker is unable to locate or interview the custodial parent or parents. The  
14 cabinet shall be made a party defendant to the appeal. In the hearing of an appeal,  
15 the court shall review the findings of the secretary and shall determine if the  
16 secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse  
17 of discretion.

18 (11) If a child who does not fall within the exception provided for in KRS 199.470(4) is  
19 placed or received in a home without the court's review of the background check  
20 required under this section or the permission of the secretary for health and family  
21 services, or if permission to receive a child has been denied, a representative of the  
22 cabinet shall notify in writing or may petition the juvenile session of District Court  
23 of the county in which the child is found setting out the facts concerning the child.  
24 When the petition has been filed, the court shall take jurisdiction of the child and  
25 shall provide for it as it would provide for a dependent child, neglected child, or  
26 abused child under KRS Chapter 620, except that the child may not be placed in the  
27 home of the applicants who are to receive the child unless permission to do so is

1 granted by the secretary or the action is ordered by a Kentucky court of competent  
2 jurisdiction.

3 (12) When either the custodial parent or parents of the child to be placed or the persons  
4 wishing to receive the child reside out-of-state, the requirement of KRS 615.030,  
5 Interstate Compact on the Placement of Children, shall be met before the cabinet  
6 gives approval for the child's placement.

7 (13) The secretary of the Cabinet for Health and Family Services shall be paid a  
8 nonrefundable fee of two hundred dollars (\$200) upon the filing of the written  
9 application for permission to place or receive a child. Payment shall be made by  
10 certified or cashier's check only. All funds collected under this section shall be  
11 deposited in a restricted account, which is hereby created, for the purpose of  
12 subsidizing an adoptive parent for suitable care of a special-needs child as  
13 authorized in KRS 199.555.

14 (14) Nothing in this statute shall be construed to limit the authority of the cabinet or a  
15 child-placing institution or agency to determine the proper disposition of a child  
16 committed to it by the juvenile session of District Court or the Circuit Court, prior  
17 to the filing of an application to place or receive.