

1 AN ACT relating to the protection of children.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section, "abuse or neglect" means the infliction of physical pain,
6 physical or mental injury, or the deprivation of services by a person that are
7 necessary to maintain the health and welfare of a child.

8 (2) A person is guilty of child abuse homicide when:

9 (a) He or she intentionally abuses or neglects another person who is under
10 eighteen (18) years old; and

11 (b) The death is a result of the abuse or neglect.

12 (3) Child abuse homicide is a capital offense.

13 ➔Section 2. KRS 199.896 is amended to read as follows:

14 (1) ~~A~~~~No~~ person, association, or organization shall **not** conduct, operate, maintain, or
15 advertise any child-care center without obtaining a license as provided in KRS
16 199.892 to 199.896.

17 (2) The cabinet may promulgate administrative regulations pursuant to KRS Chapter
18 13A relating to license fees and may, in the administrative regulations, establish
19 standards of care and service for a child-care center, criteria for the denial of a
20 license if criminal records indicate convictions that may impact the safety and
21 security of children in care, and procedures for enforcement of penalties which are
22 not in contravention of this section.

23 (3) Each initial application for a license shall be made to the cabinet and shall be
24 accompanied by a fee that shall not exceed administrative costs of the program to
25 the cabinet and shall be renewable annually upon expiration and reapplication when
26 accompanied by a renewal fee that shall not exceed administrative costs of the
27 program to the cabinet. Regular licenses and renewals thereof shall expire one (1)

- 1 year from their effective date.
- 2 (4) ~~A~~~~No~~ child-care center shall ***not*** be refused a license or have its license revoked for
3 failure to meet standards set by the secretary until after the expiration of a period
4 not to exceed six (6) months from the date of the first official notice that the
5 standards have not been met. ~~If, however,~~ the cabinet has probable cause to
6 believe that an immediate threat to the public health, safety, or welfare exists, the
7 cabinet may take emergency action pursuant to KRS 13B.125. All administrative
8 hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted
9 in accordance with KRS Chapter 13B.
- 10 (5) If, upon inspection or investigation, the inspector general finds that a child-care
11 center licensed under this section has violated the administrative regulations,
12 standards, or requirements of the cabinet, the inspector general shall issue a
13 statement of deficiency to the center containing:
- 14 (a) A statement of fact;
- 15 (b) A statement of how an administrative regulation, standard, or requirement of
16 the cabinet was violated; and
- 17 (c) The timeframe, negotiated with the child-care center, within which a violation
18 is to be corrected, except that a violation that poses an immediate threat to the
19 health, safety, or welfare of children in the center shall be corrected in no
20 event later than five (5) working days from the date of the statement of
21 deficiency.
- 22 (6) The Cabinet for Health and Family Services, in consultation with the Office of the
23 Inspector General, shall establish by administrative regulations promulgated in
24 accordance with KRS Chapter 13A an informal dispute resolution process through
25 which a child-care provider may dispute licensure deficiencies that have an adverse
26 effect on the child-care provider's license.
- 27 (7) A child-care center shall have the right to appeal to the Cabinet for Health and

1 Family Services under KRS Chapter 13B any action adverse to its license or the
2 assessment of a civil penalty issued by the inspector general as the result of a
3 violation contained in a statement of deficiency within twenty (20) days of the
4 issuance of the action or assessment of the civil penalty. An appeal shall not act to
5 stay the correction of a violation.

6 (8) In assessing the civil penalty to be levied against a child-care center for a violation
7 contained in a statement of deficiency issued under this section, the inspector
8 general or the inspector general's designee shall take into consideration the
9 following factors:

10 (a) The gravity of the threat to the health, safety, or welfare of children posed by
11 the violation;

12 (b) The number and type of previous violations of the child-care center;

13 (c) The reasonable diligence exercised by the child-care center and efforts to
14 correct the violation; and

15 (d) The amount of assessment necessary to assure immediate and continued
16 compliance.

17 (9) Upon a child-care center's failure to take action to correct a violation of the
18 administrative regulations, standards, or requirements of the cabinet contained in a
19 statement of deficiency, or at any time when the operation of a child-care center
20 poses an immediate threat to the health, safety, or welfare of children in the center,
21 and the child-care center continues to operate after the cabinet has taken emergency
22 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee
23 shall take at least one (1) of the following actions against the center:

24 (a) Institute proceedings to obtain an order compelling compliance with the
25 administrative regulations, standards, and requirements of the cabinet;

26 (b) Institute injunctive proceedings in Circuit Court to terminate the operation of
27 the center;

- 1 (c) Institute action to discontinue payment of child-care subsidies; or
- 2 (d) Suspend or revoke the license or impose other penalties provided by law.
- 3 (10) Upon request of any person, the cabinet shall provide information regarding the
- 4 denial, revocation, suspension, or violation of any type of child-care center license
- 5 of the operator. Identifying information regarding children and their families shall
- 6 remain confidential.
- 7 (11) The cabinet shall provide, upon request, public information regarding the
- 8 inspections of and the plans of correction for the child-care center within the past
- 9 year. All information distributed by the cabinet under this subsection shall include a
- 10 statement indicating that the reports as provided under this subsection from the past
- 11 five (5) years are available from the child-care center upon the parent's, custodian's,
- 12 guardian's, or other interested person's request.
- 13 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and
- 14 certification applications shall be paid into the State Treasury and credited to a
- 15 special fund for the purpose of administering KRS 199.892 to 199.896 including the
- 16 payment of expenses of and to the participants in child-care workshops. The funds
- 17 collected are hereby appropriated for the use of the cabinet. The balance of the
- 18 special fund shall lapse to the general fund at the end of each biennium.
- 19 (13) Any advertisement for child-care services shall include the address of where the
- 20 service is being provided.
- 21 (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for
- 22 Health and Family Services shall be unannounced.
- 23 (15) All employees and owners of a child-care center who provide care to children shall
- 24 demonstrate within the first three (3) months of employment completion of at least
- 25 a total of six (6) hours of orientation in the following areas:
- 26 (a) Basic health, safety, and sanitation;
- 27 (b) Recognizing and reporting child abuse; and

1 (c) Developmentally appropriate child-care practice.

2 (16) All employees and owners of a child-care center who provide care to children shall
3 annually demonstrate to the department completion of at least six (6) hours of
4 training in child development. These hours shall include but are not limited to one
5 and one-half (1.5) hours one (1) time every five (5) years of continuing education in
6 the recognition and prevention of pediatric abusive head trauma, as defined in KRS
7 620.020. Training in recognizing pediatric abusive head trauma may be designed in
8 collaboration with organizations and agencies that specialize in the prevention and
9 recognition of pediatric head trauma approved by the secretary of the Cabinet for
10 Health and Family Services. The one and one-half (1.5) hours required under this
11 section shall be included in the current number of required continuing education
12 hours.

13 (17) The Cabinet for Health and Family Services shall make available either through the
14 development or approval of a model training curriculum and training materials,
15 including video instructional materials, to cover the areas specified in subsection
16 (15) of this section. The cabinet shall develop or approve the model training
17 curriculum and training materials to cover the areas specified in subsection (15) of
18 this section.

19 (18) Child-care centers licensed pursuant to this section and family child-care homes
20 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,
21 including the use of spanking, shaking, or paddling, as a means of punishment,
22 discipline, behavior modification, or for any other reason. For the purposes of this
23 section, "corporal physical discipline" means the deliberate infliction of physical
24 pain and does not include spontaneous physical contact that is intended to protect a
25 child from immediate danger.

26 **(19) (a) Child-care centers licensed pursuant to this section shall:**

27 **1. Maintain video surveillance of all public areas within the child-care**

1 center, including but not limited to hallways, entrances, play areas,
2 common areas, and eating areas;

3 2. Provide notice to parents and guardians of children who attend the
4 child-care center that children are subject to video surveillance; and

5 3. Retain footage of video surveillance for ninety (90) days after the date
6 the footage is recorded.

7 (b) Video surveillance shall not take place in private areas within the child-care
8 center, including but not limited to bathrooms and changing areas.

9 (20)~~[(19)]~~ Child-care centers that provide instructional and educational programs for
10 preschool-aged children that operate for a maximum of twenty (20) hours per week
11 and that a child attends for no more than fifteen (15) hours per week shall:

12 (a) Notify the cabinet in writing that the center is operating;

13 (b) Meet all child-care center licensure requirements and administrative
14 regulations related to employee background checks;

15 (c) Meet all child-care center licensure requirements and administrative
16 regulations related to tuberculosis screenings; and

17 (d) Be exempt from all other child-care center licensure requirements and
18 administrative regulations.

19 (21)~~[(20)]~~ Child-care centers that provide instructional and educational programs for
20 preschool-aged children that operate for a maximum of twenty (20) hours per week
21 and that a child attends for no more than ten (10) hours per week shall be exempt
22 from all child-care licensure requirements and administrative regulations.

23 (22)~~[(21)]~~ Instructional programs for school-age children that offer, whether free or for a
24 fee, recreational, educational, sports training, or vacation programs that include but
25 are not limited to martial arts and dance programs to children under eighteen (18)
26 years of age, that a child attends outside the presence of his or her parent or legal
27 guardian, shall be exempt from all child-care licensure administrative regulations if

1 the following criteria are met:

2 (a) The program provides primary instruction in a skill, talent, ability, expertise,
3 or proficiency;

4 (b) The program operates outside the time period when school is in session,
5 including before or after school hours, holidays, school breaks, teaching
6 planning days, or summer vacation;

7 (c) The program does not advertise or otherwise represent that the program is a
8 licensed child-care center or that the program offers child-care services;

9 (d) The program informs the parent or guardian:

10 1. That the program is not licensed by the cabinet; and

11 2. About the physical risks a child may face while participating in the
12 program; and

13 (e) The program conducts the following background checks for all program
14 employees and volunteers who work with children:

15 1. Check of the child abuse and neglect records maintained by the cabinet;
16 and

17 2. In-state criminal background information check from the Justice and
18 Public Safety Cabinet or Administrative Office of the Courts.

19 ~~(23)~~~~[(22)]~~ Directors and employees of child-care centers in a position that involves
20 supervisory or disciplinary power over a minor, or direct contact with a minor, shall
21 submit to a criminal record check in accordance with KRS 199.8965.

22 ~~(24)~~~~[(23)]~~ A director or employee of a child-care center may be employed on a
23 probationary status pending receipt of the criminal background check. Application
24 for the criminal record of a probationary employee shall be made no later than the
25 date probationary employment begins.

26 ~~(25)~~~~[(24)]~~ The cabinet shall promulgate administrative regulations to identify emergency
27 care providers who provide essential child-care services during an identified state of

1 emergency.

2 ~~(26)~~~~(25)~~ Notwithstanding any state law, administrative regulation, executive order, or
3 executive directive to the contrary, during the 2020 or 2021 state of emergency
4 declared by the Governor in response to COVID-19, including but not limited to
5 any mutated strain of the COVID-19 virus, the cabinet shall not establish any
6 restrictions on capacity for class or group size or the ability to combine classes and
7 groups for capacity limits in the morning or afternoon that is below the number that
8 was in effect on February 1, 2020.

9 ➔Section 3. KRS 507.030 is amended to read as follows:

10 (1) A person is guilty of manslaughter in the first degree when:

11 (a) With intent to cause serious physical injury to another person, he or she
12 causes the death of such person or of a third person;

13 (b) With intent to cause the death of another person, he or she causes the death of
14 such person or of a third person under circumstances which do not constitute
15 murder because he or she acts under the influence of extreme emotional
16 disturbance, as defined in subsection (1)(a) of KRS 507.020;

17 (c) Through circumstances not otherwise constituting the offense of murder, he or
18 she intentionally abuses another person or knowingly permits another person
19 of whom he or she has actual custody to be abused and thereby causes death
20 to a person under eighteen (18)~~twelve (12)~~ years of age~~or less~~, or who is
21 physically helpless or mentally helpless; or

22 (d) He or she knowingly sells fentanyl or a fentanyl derivative to another person,
23 and the injection, ingestion, inhalation, or other introduction of the fentanyl or
24 fentanyl derivative causes the death of the person.

25 (2) Manslaughter in the first degree is a Class B felony.

26 ➔Section 4. KRS 507.040 is amended to read as follows:

27 (1) A person is guilty of manslaughter in the second degree when he or she wantonly

1 causes the death of another person, including but not limited to situations where the
2 death results from the person's:

- 3 (a) Operation of a motor vehicle;
- 4 (b) Leaving a child under the age of eight (8) years in a motor vehicle under
5 circumstances which manifest an extreme indifference to human life and
6 which create a grave risk of death to the child, thereby causing the death of
7 the child;
- 8 (c) Unlawful distribution for remuneration of a Schedule I or II controlled
9 substance when the controlled substance is the proximate cause of death; or
- 10 (d) Knowing distribution of fentanyl or a fentanyl derivative to another person
11 without remuneration, and the injection, ingestion, inhalation, or other
12 introduction of the fentanyl or fentanyl derivative causes the death of the
13 person.

14 (2) Manslaughter in the second degree is a Class C felony, unless the victim is a
15 person under eighteen (18) years of age, in which case is a Class B felony.

16 ➔Section 5. KRS 508.100 is amended to read as follows:

17 (1) A person is guilty of criminal abuse in the first degree when he or she knowingly or
18 intentionally abuses another person or permits another person of whom he or she
19 has actual custody to be abused and thereby:

- 20 (a) Causes serious physical injury;
- 21 (b) Places him or her in a situation that may cause him or her serious physical
22 injury; or
- 23 (c) Causes torture, cruel confinement, or cruel punishment;
24 to a person under eighteen (18)~~twelve (12)~~ years of age~~or less~~, or who is
25 physically helpless or mentally helpless.

26 (2) Criminal abuse in the first degree is a Class B~~Class C~~ felony unless the victim is
27 under eighteen (18)~~twelve (12)~~ years old, in which case it is a Class A~~Class B~~

1 felony.

2 ➔Section 6. KRS 508.110 is amended to read as follows:

- 3 (1) A person is guilty of criminal abuse in the second degree when he or she wantonly
4 abuses another person or permits another person of whom he or she has actual
5 custody to be abused and thereby:
- 6 (a) Causes serious physical injury; or
7 (b) Places him or her in a situation that may cause him or her serious physical
8 injury; or
9 (c) Causes torture, cruel confinement, or cruel punishment;
10 to a person under eighteen (18)~~[twelve (12)]~~ years of age~~[or less]~~, or who is
11 physically helpless or mentally helpless.
- 12 (2) Criminal abuse in the second degree is a Class C~~[Class D]~~ felony.

13 ➔Section 7. KRS 508.120 is amended to read as follows:

- 14 (1) A person is guilty of criminal abuse in the third degree when he or she recklessly
15 abuses another person or permits another person of whom he or she has actual
16 custody to be abused and thereby:
- 17 (a) Causes serious physical injury; or
18 (b) Places him or her in a situation that may cause him or her serious physical
19 injury; or
20 (c) Causes torture, cruel confinement, or cruel punishment;
21 to a person under eighteen (18)~~[twelve (12)]~~ years of age~~[or less]~~, or who is
22 physically helpless or mentally helpless.
- 23 (2) Criminal abuse in the third degree is a Class D felony~~[Class A misdemeanor]~~.

24 ➔Section 8. KRS 532.025 is amended to read as follows:

- 25 (1) (a) Upon conviction of a defendant in cases where the death penalty may be
26 imposed, a hearing shall be conducted. In the~~[such]~~ hearing, the judge shall
27 hear additional evidence in extenuation, mitigation, and aggravation of

1 punishment, including the record of any prior criminal convictions and pleas
2 of guilty or pleas of nolo contendere of the defendant, or the absence of any
3 prior conviction and pleas. However, only ~~provided, however, that only~~
4 ~~such~~ evidence in aggravation as the state has made known to the defendant
5 prior to his or her trial shall be admissible. Subject to the Kentucky Rules of
6 Evidence, juvenile court records of adjudications of guilt of a child for an
7 offense that would be a felony if committed by an adult shall be admissible in
8 court at any time the child is tried as an adult, or after the child becomes an
9 adult, at any subsequent criminal trial relating to that same person. Juvenile
10 court records made available pursuant to this section may be used for
11 impeachment purposes during a criminal trial and may be used during the
12 sentencing phase of a criminal trial. ~~;~~ However, the fact that a juvenile has
13 been adjudicated delinquent of an offense that would be a felony if the child
14 had been an adult shall not be used in finding the child to be a persistent
15 felony offender based upon that adjudication. Release of the child's treatment,
16 medical, mental, or psychological records is prohibited unless presented as
17 evidence in Circuit Court. Release of any records resulting from the child's
18 prior abuse and neglect under Title IV-E or IV-B of the Federal Social
19 Security Act is also prohibited. The judge shall also hear argument by the
20 defendant or his or her counsel and the prosecuting attorney, as provided by
21 law, regarding the punishment to be imposed. The prosecuting attorney shall
22 open and the defendant shall conclude the argument. In cases in which the
23 death penalty may be imposed, the judge when sitting without a jury shall
24 follow the additional procedure provided in subsection (2) of this section.
25 Upon the conclusion of the evidence and arguments, the judge shall impose
26 the sentence or shall recess the trial for the purpose of taking the sentence
27 within the limits prescribed by law. If the trial court is reversed on appeal

1 because of error only in the presentence hearing, the new trial which may be
2 ordered shall apply only to the issue of punishment.

3 (b) In all cases in which the death penalty may be imposed and which are tried by
4 a jury, upon a return of a verdict of guilty by the jury, the court shall resume
5 the trial and conduct a presentence hearing before the jury. ~~The~~^{Such} hearing
6 shall be conducted in the same manner as presentence hearings conducted
7 before the judge as provided in paragraph (a) of this subsection, including the
8 record of any prior criminal convictions and pleas of guilty or pleas of nolo
9 contendere of the defendant. Upon the conclusion of the evidence and
10 arguments, the judge shall give the jury appropriate instructions, and the jury
11 shall retire to determine whether any mitigating or aggravating circumstances,
12 as defined in subsection (2) of this section, exist and to recommend a sentence
13 for the defendant. Upon the findings of the jury, the judge shall fix a sentence
14 within the limits prescribed by law.

15 (2) In all cases of offenses for which the death penalty may be authorized, the judge
16 shall consider, or include in his or her instructions to the jury for it to consider, any
17 mitigating circumstances or aggravating circumstances otherwise authorized by law
18 and any of the following statutory aggravating or mitigating circumstances which
19 may be supported by the evidence:

20 (a) Aggravating circumstances:

- 21 1. The offense of murder or kidnapping was committed by a person with a
22 prior record of conviction for a capital offense, or the offense of murder
23 was committed by a person who has a substantial history of serious
24 assaultive criminal convictions;
- 25 2. The offense of murder or kidnapping was committed while the offender
26 was engaged in the commission of arson in the first degree, robbery in
27 the first degree, burglary in the first degree, rape in the first degree, or

1 sodomy in the first degree;

2 3. The offender by his or her act of murder, armed robbery, or kidnapping
3 knowingly created a great risk of death to more than one (1) person in a
4 public place by means of a weapon of mass destruction, weapon, or
5 other device which would normally be hazardous to the lives of more
6 than one (1) person;

7 4. The offender committed the offense of murder for himself, herself, or
8 another, for the purpose of receiving money or any other thing of
9 monetary value, or for other profit;

10 5. The offense of murder was committed by a person who was a prisoner
11 and the victim was a prison employee engaged at the time of the act in
12 the performance of his or her duties;

13 6. The offender's act or acts of killing were intentional and resulted in
14 multiple deaths;

15 7. The offender's act of killing was intentional and the victim was:

16 a. A state or local public official; or

17 b. A first responder, as defined in KRS 507.070;

18 8. The offender murdered the victim when an emergency protective order
19 or a domestic violence order was in effect, or when any other order
20 designed to protect the victim from the offender, such as an order issued
21 as a condition of a bond, conditional release, probation, parole, or
22 pretrial diversion, was in effect; and

23 9. The offender's act of killing was intentional and resulted in the death of
24 a child under eighteen (18)~~twelve (12)~~ years old.

25 (b) Mitigating circumstances:

26 1. The defendant has no significant history of prior criminal activity;

27 2. The capital offense was committed while the defendant was under the

- 1 influence of extreme mental or emotional disturbance even though the
2 influence of extreme mental or emotional disturbance is not sufficient to
3 constitute a defense to the crime;
- 4 3. The victim was a participant in the defendant's criminal conduct or
5 consented to the criminal act;
- 6 4. The capital offense was committed under circumstances which the
7 defendant believed to provide a moral justification or extenuation for his
8 or her conduct even though the circumstances which the defendant
9 believed to provide a moral justification or extenuation for his or her
10 conduct are not sufficient to constitute a defense to the crime;
- 11 5. The defendant was an accomplice in a capital offense committed by
12 another person and his or her participation in the capital offense was
13 relatively minor;
- 14 6. The defendant acted under duress or under the domination of another
15 person even though the duress or the domination of another person is not
16 sufficient to constitute a defense to the crime;
- 17 7. At the time of the capital offense, the capacity of the defendant to
18 appreciate the criminality of his or her conduct to the requirements of
19 law was impaired as a result of mental illness or an intellectual disability
20 or intoxication even though the impairment of the capacity of the
21 defendant to appreciate the criminality of his or her conduct or to
22 conform the conduct to the requirements of law is insufficient to
23 constitute a defense to the crime; and
- 24 8. The youth of the defendant at the time of the crime.
- 25 (3) The instructions as determined by the trial judge to be warranted by the evidence or
26 as required by KRS 532.030(4) shall be given in charge and in writing to the jury
27 for its deliberation. The jury, if its verdict be a recommendation of death, or

1 imprisonment for life without benefit of probation or parole, or imprisonment for
2 life without benefit of probation or parole until the defendant has served a minimum
3 of twenty-five (25) years of his or her sentence, shall designate in writing, signed by
4 the foreman of the jury, the aggravating circumstance or circumstances which it
5 found beyond a reasonable doubt. In nonjury cases, the judge shall make ~~the~~^{such}
6 designation. In all cases unless at least one (1) of the statutory aggravating
7 circumstances enumerated in subsection (2) of this section is so found, the death
8 penalty, or imprisonment for life without benefit of probation or parole, or the
9 sentence to imprisonment for life without benefit of probation or parole until the
10 defendant has served a minimum of twenty-five (25) years of his or her sentence,
11 shall not be imposed.

12 ➔Section 9. KRS 625.090 is amended to read as follows:

13 (1) The Circuit Court may involuntarily terminate all parental rights of a parent of a
14 named child, if the Circuit Court finds from the record by clear and convincing
15 evidence that:

- 16 (a) 1. The child has been adjudged to be an abused or neglected child, as
17 defined in KRS 600.020(1), by a court of competent jurisdiction;
18 2. The child is found to be an abused or neglected child, as defined in KRS
19 600.020(1), by the Circuit Court in this proceeding;
20 3. The child is found to have been diagnosed with neonatal abstinence
21 syndrome at the time of birth, unless his or her birth mother:
22 a. Was prescribed and properly using medication for a legitimate
23 medical condition as directed by a health care practitioner that may
24 have led to the neonatal abstinence syndrome;
25 b. Is currently, or within ninety (90) days after the birth, enrolled in
26 and maintaining substantial compliance with both a substance
27 abuse treatment or recovery program and a regimen of prenatal

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

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

1 or contributed to the death of another child as a result of physical or sexual
2 abuse or neglect;

3 (j) That the child has been in foster care under the responsibility of the cabinet
4 for fifteen (15) cumulative months out of forty-eight (48) months preceding
5 the filing of the petition to terminate parental rights; or

6 (k) That the child has been removed from the biological or legal parents more
7 than two (2) times in a twenty-four (24) month period by the cabinet or a
8 court.

9 **(3) If the parent has been convicted:**

10 **(a) Of a felony that involved the infliction of serious physical injury to any**
11 **child; or**

12 **(b) In a criminal proceeding of having caused or contributed to the death of**
13 **another child as a result of physical or sexual abuse or neglect;**

14 **There shall be a rebuttable presumption that parental rights shall be terminated.**

15 **(4) [(3)]** In determining the best interest of the child and the existence of a ground for
16 termination, the Circuit Court shall consider the following factors:

17 (a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as
18 defined by KRS 202B.010(9) of the parent as certified by a qualified mental
19 health professional, or a disability as defined in KRS 199.011, if the mental
20 illness, intellectual disability, or disability renders the parent consistently
21 unable to care for the immediate and ongoing physical or psychological needs
22 of the child for extended periods of time;

23 (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the
24 family;

25 (c) If the child has been placed with the cabinet, whether the cabinet has, prior to
26 the filing of the petition:

27 1. Made reasonable efforts as defined in KRS 620.020 to reunite the child

1 with the parents unless one or more of the circumstances enumerated in
2 KRS 610.127 for not requiring reasonable efforts have been
3 substantiated in a written finding by the District Court; or

4 2. Provided a parent with a disability as defined in KRS 199.011 with
5 targeted adaptive and supportive services based on an individual
6 assessment of the parent, or has received a written acknowledgement
7 from the parent knowingly and affirmatively rejecting the offered
8 services;

9 (d) The efforts and adjustments the parent has made in his or her circumstances,
10 conduct, or conditions to make it in the child's best interest to return the child
11 to his or her home within a reasonable period of time, considering the age of
12 the child;

13 (e) The physical, emotional, and mental health of the child and the prospects for
14 the improvement of the child's welfare if termination is ordered; and

15 (f) The payment or the failure to pay a reasonable portion of substitute physical
16 care and maintenance if financially able to do so.

17 ~~(5)~~~~(4)~~ If the child has been placed with the cabinet, the parent may present testimony
18 concerning the reunification, adaptive or supportive services offered by the cabinet,
19 and whether additional services would be likely to bring about lasting parental
20 adjustment enabling a return of the child to the parent.

21 ~~(6)~~~~(5)~~ If the parent proves by a preponderance of the evidence that the child will not
22 continue to be an abused or neglected child as defined in KRS 600.020(1) if
23 returned to the parent, or if the parent proves by a preponderance of the evidence
24 that appropriate and specifically targeted adaptive or supportive services based
25 upon an individual assessment of the parent have not been offered or provided to
26 the parent, the court in its discretion may determine not to terminate parental rights.

27 ~~(7)~~~~(6)~~ Upon the conclusion of proof and argument of counsel, the Circuit Court shall

- 1 enter findings of fact, conclusions of law, and a decision as to each parent-
- 2 respondent within thirty (30) days either:
- 3 (a) Terminating the right of the parent; or
- 4 (b) Dismissing the petition and stating whether the child shall be returned to the
- 5 parent or shall remain in the custody of the state.
- 6 ➔Section 10. This Act may be cited as Jayden's Law.