

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

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

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

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

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

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

22 c[5]. Commits or allows to be committed an act of sexual abuse, sexual
23 exploitation, or prostitution upon the child;

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

27 e[7]. ~~[Abandons or]~~ Exploits the child; ***or***

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

10 ~~9. 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 ~~[10].~~ Commits or allows female genital mutilation as defined in
16 KRS 508.125 to be committed; or

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

20 **(b) "Abused child" does not include a child who is physically disciplined when**
21 **the discipline:**

22 **1. Is reasonable and moderate;**

23 **2. Is inflicted:**

24 **a. By a parent, guardian, or person in a position of authority or**
25 **special trust, as those terms are defined in KRS 532.045; and**

26 **b. For purposes of restraining or correcting the child; and**

27 **3. Does not otherwise constitute cruelty;**

- 1 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
2 675(11);
- 3 (3) "Aggravated circumstances" means the existence of one (1) or more of the
4 following conditions:
- 5 (a) The parent has not attempted or has not had contact with the child for a period
6 of not less than ninety (90) days;
- 7 (b) The parent is incarcerated and will be unavailable to care for the child for a
8 period of at least one (1) year from the date of the child's entry into foster care
9 and there is no appropriate relative placement available during this period of
10 time;
- 11 (c) The parent has sexually abused the child and has refused available treatment;
- 12 (d) The parent has been found by the cabinet to have engaged in abuse of the
13 child that required removal from the parent's home two (2) or more times in
14 the past two (2) years; or
- 15 (e) The parent has caused the child serious physical injury;
- 16 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
17 the reasonable directives of his or her parents, legal guardian, or person exercising
18 custodial control or supervision other than a state agency, which behavior results in
19 danger to the child or others, and which behavior does not constitute behavior that
20 would warrant the filing of a petition under KRS Chapter 645;
- 21 (5) "Beyond the control of school" means any child who has been found by the court to
22 have repeatedly violated the lawful regulations for the government of the school as
23 provided in KRS 158.150, and as documented in writing by the school as a part of
24 the school's petition or as an attachment to the school's petition. The petition or
25 attachment shall describe the student's behavior and all intervention strategies
26 attempted by the school;
- 27 (6) "Boarding home" means a privately owned and operated home for the boarding and

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

- 1 operated, or permitted to operate by the Department of Juvenile Justice or the
2 cabinet, which is located within a reasonable proximity of the child's family and
3 home community, which affords the child the opportunity, if a Kentucky resident,
4 to continue family and community contact;
- 5 (15) "Complaint" means a verified statement setting forth allegations in regard to the
6 child which contain sufficient facts for the formulation of a subsequent petition;
- 7 (16) "Court" means the juvenile session of District Court unless a statute specifies the
8 adult session of District Court or the Circuit Court;
- 9 (17) "Court-designated worker" means that organization or individual delegated by the
10 Administrative Office of the Courts for the purposes of placing children in
11 alternative placements prior to arraignment, conducting preliminary investigations,
12 and formulating, entering into, and supervising diversion agreements and
13 performing such other functions as authorized by law or court order;
- 14 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 15 (19) "Department" means the Department for Community Based Services;
- 16 (20) "Dependent child" means any child, other than an abused child or neglected child,
17 who is under improper care, custody, control, or guardianship that is not due to an
18 intentional act of the parent, guardian, or person exercising custodial control or
19 supervision of the child;
- 20 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
21 conduct subject to the jurisdiction of the court who requires a restricted or closely
22 supervised environment for his or her own or the community's protection;
- 23 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
24 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
25 period of detention prior to adjudication;
- 26 (23) "Diversion agreement" means a mechanism designed to hold a child accountable
27 for his or her behavior and, if appropriate, securing services to serve the best

1 interest of the child and to provide redress for that behavior without court action
2 and without the creation of a formal court record;

3 (24) "Eligible youth" means a person who:

- 4 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 5 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 6 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
7 order to participate in state or federal educational programs or to establish
8 independent living arrangements;

9 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
10 homelike facility which provides temporary or emergency care of children and
11 adequate staff and services consistent with the needs of each child;

12 (26) "Emotional injury" means an injury to the mental or psychological capacity or
13 emotional stability of a child as evidenced by a substantial and observable
14 impairment in the child's ability to function within a normal range of performance
15 and behavior, including withdrawal or untoward aggressive behavior, with due
16 regard to his or her age, development, culture, and environment as testified to by a
17 qualified mental health professional;

18 (27) "Evidence-based practices" means policies, procedures, programs, and practices
19 proven by scientific research to reliably produce reductions in recidivism;

20 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
21 to a child, but who has an emotionally significant relationship with the child, or an
22 emotionally significant relationship with a biological parent, siblings, or half-
23 siblings of the child in the case of a child from birth to twelve (12) months of age,
24 prior to placement;

25 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

26 (30) "Foster family home" means a private home in which children are placed for foster
27 family care under supervision of the cabinet or a licensed child-placing agency;

- 1 (31) "Graduated sanction" means any of a continuum of accountability measures,
2 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
3 that may include but are not limited to:
- 4 (a) Electronic monitoring;
 - 5 (b) Drug and alcohol screening, testing, or monitoring;
 - 6 (c) Day or evening reporting centers;
 - 7 (d) Reporting requirements;
 - 8 (e) Community service; and
 - 9 (f) Rehabilitative interventions such as family counseling, substance abuse
10 treatment, restorative justice programs, and behavioral or mental health
11 treatment;
- 12 (32) "Habitual runaway" means any child who has been found by the court to have been
13 absent from his or her place of lawful residence without the permission of his or her
14 custodian for at least three (3) days during a one (1) year period;
- 15 (33) "Habitual truant" means any child who has been found by the court to have been
16 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a
17 one (1) year period;
- 18 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
19 public facility, health care facility, or part thereof, which is approved by the cabinet
20 to treat children;
- 21 (35) "Independent living" means those activities necessary to assist a committed child to
22 establish independent living arrangements;
- 23 (36) "Informal adjustment" means an agreement reached among the parties, with
24 consultation, but not the consent, of the victim of the crime or other persons
25 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
26 after a petition has been filed, which is approved by the court, that the best interest
27 of the child would be served without formal adjudication and disposition;

- 1 (37) "Intentionally" means, with respect to a result or to conduct described by a statute
2 which defines an offense, that the actor's conscious objective is to cause that result
3 or to engage in that conduct;
- 4 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
5 the program developed on the child's behalf is no more harsh, hazardous, or
6 intrusive than necessary; or involves no restrictions on physical movements nor
7 requirements for residential care except as reasonably necessary for the protection
8 of the child from serious physical injury; or protection of the community, and is
9 conducted at the suitable available facility closest to the child's place of residence to
10 allow for appropriate family engagement;
- 11 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
12 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 13 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
14 serious or critical condition;
- 15 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 16 **(42) "Neglected child" means a child whose health or welfare is harmed or threatened**
17 **with harm when:**
- 18 **(a) His or her parent, guardian, person in a position of authority or special**
19 **trust, as those terms are defined in KRS 532.045, or other person exercising**
20 **custodial control or supervision of the child:**
- 21 **1. Inflicts or allows to be inflicted upon the child emotional injury by**
22 **other than accidental means;**
- 23 **2. Engages in a pattern of conduct that renders the parent incapable of**
24 **caring for the immediate and ongoing needs of the child, including**
25 **but not limited to parental incapacity due to substance use disorder as**
26 **defined in KRS 222.005;**
- 27 **3. Continuously or repeatedly fails or refuses to provide essential**

1 parental care and protection for the child, considering the age of the
2 child;

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

5 5. Exposes the child prenatally to chronic or severe use of alcohol or any
6 controlled substance;

7 6. Abandons the child;

8 7. Does not provide the child with adequate care, supervision, food,
9 clothing, shelter, and education or medical care necessary for the
10 child's well-being when financially able to do so or offered financial
11 or other means to do so. A parent or other person exercising custodial
12 control or supervision of the child legitimately practicing the person's
13 religious beliefs shall not be considered a negligent parent solely
14 because of failure to provide specified medical treatment for a child
15 for that reason alone. This exception shall not preclude a court from
16 ordering necessary medical services for a child; or

17 8. Fails to make sufficient progress toward identified goals as set forth in
18 the court-approved case plan to allow for the safe return of the child to
19 the parent that results in the child remaining committed to the cabinet
20 and remaining in foster care for fifteen (15) cumulative months out of
21 forty-eight (48) months; or

22 (b) His or her parent, guardian, or other person exercising custodial control or
23 supervision of the child is unable to discharge his or her responsibilities to
24 and for the child because of incarceration;

25 (43)[(42)] "Nonoffender" means a child alleged to be dependent, neglected, or abused
26 and who has not been otherwise charged with a status or public offense;

27 (44)[(43)] "Nonsecure facility" means a facility which provides its residents access to

1 the surrounding community and which does not rely primarily on the use of
2 physically restricting construction and hardware to restrict freedom;

3 ~~(45)~~~~[(44)]~~ "Nonsecure setting" means a nonsecure facility or a residential home,
4 including a child's own home, where a child may be temporarily placed pending
5 further court action. Children before the court in a county that is served by a state
6 operated secure detention facility, who are in the detention custody of the
7 Department of Juvenile Justice, and who are placed in a nonsecure alternative by
8 the Department of Juvenile Justice, shall be supervised by the Department of
9 Juvenile Justice;

10 ~~(46)~~~~[(45)]~~ "Out-of-home placement" means a placement other than in the home of a
11 parent, relative, or guardian, in a boarding home, clinical treatment facility,
12 community-based facility, detention facility, emergency shelter, fictive kin home,
13 foster family home, hospital, nonsecure facility, physically secure facility,
14 residential treatment facility, or youth alternative center;

15 ~~(47)~~~~[(46)]~~ "Parent" means the biological or adoptive mother or father of a child;

16 ~~(48)~~~~[(47)]~~ "Person exercising custodial control or supervision" means a person or agency
17 that has assumed the role and responsibility of a parent or guardian for the child, but
18 that does not necessarily have legal custody of the child;

19 ~~(49)~~~~[(48)]~~ "Petition" means a verified statement, setting forth allegations in regard to the
20 child, which initiates formal court involvement in the child's case;

21 ~~(50)~~~~[(49)]~~ "Physical injury" means substantial physical pain or any impairment of
22 physical condition that is likely to cause death or serious or protracted
23 disfigurement, or protracted loss or impairment of the function of any bodily
24 organ;

25 ~~(51)~~~~[(50)]~~ "Physically secure facility" means a facility that relies primarily on the use of
26 construction and hardware such as locks, bars, and fences to restrict freedom;

27 ~~(52)~~~~[(51)]~~ "Public offense action" means an action, excluding contempt, brought in the

1 interest of a child who is accused of committing an offense under KRS Chapter 527
2 or a public offense which, if committed by an adult, would be a crime, whether the
3 same is a felony, misdemeanor, or violation, other than an action alleging that a
4 child sixteen (16) years of age or older has committed a motor vehicle offense;

5 (53)~~[(52)]~~ "Qualified mental health professional" means:

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

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

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

17 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
18 an accredited institution and two (2) years of clinical experience with
19 mentally ill persons, or a licensed registered nurse with a bachelor's degree in
20 nursing from an accredited institution who is certified as a psychiatric and
21 mental health nurse by the American Nurses Association and who has three
22 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
23 and who is currently employed by a hospital or forensic psychiatric facility
24 licensed by the Commonwealth or a psychiatric unit of a general hospital, a
25 private agency or company engaged in providing mental health services, or a
26 regional comprehensive care center;

27 (e) A licensed clinical social worker licensed under the provisions of KRS

- 1 335.100, or a certified social worker licensed under the provisions of KRS
2 335.080 with three (3) years of inpatient or outpatient clinical experience in
3 psychiatric social work and currently employed by a hospital or forensic
4 psychiatric facility licensed by the Commonwealth, a psychiatric unit of a
5 general hospital, a private agency or company engaged in providing mental
6 health services, or a regional comprehensive care center;
- 7 (f) A marriage and family therapist licensed under the provisions of KRS
8 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
9 experience in psychiatric mental health practice and currently employed by a
10 hospital or forensic psychiatric facility licensed by the Commonwealth, a
11 psychiatric unit of a general hospital, a private agency or company engaged in
12 providing mental health services, or a regional comprehensive care center;
- 13 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
14 335.599 with three (3) years of inpatient or outpatient clinical experience in
15 psychiatric mental health practice and currently employed by a hospital or
16 forensic facility licensed by the Commonwealth, a psychiatric unit of a
17 general hospital, a private agency or company engaged in providing mental
18 health services, or a regional comprehensive care center; or
- 19 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
20 (1) of the following requirements:
- 21 1. Provides documentation that he or she has completed a psychiatric
22 residency program for physician assistants;
 - 23 2. Has completed at least one thousand (1,000) hours of clinical experience
24 under a supervising physician, as defined by KRS 311.840, who is a
25 psychiatrist and is certified or eligible for certification by the American
26 Board of Psychiatry and Neurology, Inc.;
 - 27 3. Holds a master's degree from a physician assistant program accredited

1 by the Accreditation Review Commission on Education for the
2 Physician Assistant or its predecessor or successor agencies, is
3 practicing under a supervising physician as defined by KRS 311.840,
4 and:

5 a. Has two (2) years of clinical experience in the assessment,
6 evaluation, and treatment of mental disorders; or

7 b. Has been employed by a hospital or forensic psychiatric facility
8 licensed by the Commonwealth or a psychiatric unit of a general
9 hospital or a private agency or company engaged in the provision
10 of mental health services or a regional community program for
11 mental health and individuals with an intellectual disability for at
12 least two (2) years; or

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

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

18 b. Has been employed by a hospital or forensic psychiatric facility
19 licensed by the Commonwealth or a psychiatric unit of a general
20 hospital or a private agency or company engaged in the provision
21 of mental health services or a regional community program for
22 mental health and individuals with an intellectual disability for at
23 least three (3) years;

24 ~~(54)~~~~(53)~~ "Reasonable and prudent parent standard" has the same meaning as in 42
25 U.S.C. sec. 675(10);

26 ~~(55)~~~~(54)~~ "Residential treatment facility" means a facility or group home with more
27 than eight (8) beds designated by the Department of Juvenile Justice or the cabinet

1 for the treatment of children;

2 ~~(56)~~~~[(55)]~~ "Retain in custody" means, after a child has been taken into custody, the
3 continued holding of the child by a peace officer for a period of time not to exceed
4 twelve (12) hours when authorized by the court or the court-designated worker for
5 the purpose of making preliminary inquiries;

6 ~~(57)~~~~[(56)]~~ "Risk and needs assessment" means an actuarial tool scientifically proven to
7 identify specific factors and needs that are related to delinquent and noncriminal
8 misconduct;

9 ~~(58)~~~~[(57)]~~ "School personnel" means those certified persons under the supervision of the
10 local public or private education agency;

11 ~~(59)~~~~[(58)]~~ "Secretary" means the secretary of the Cabinet for Health and Family
12 Services;

13 ~~(60)~~~~[(59)]~~ "Secure juvenile detention facility" means any physically secure facility used
14 for the secure detention of children other than any facility in which adult prisoners
15 are confined;

16 ~~(61)~~~~[(60)]~~ "Serious physical injury" means physical injury which creates a substantial
17 risk of death or which causes serious and prolonged disfigurement, prolonged
18 impairment of health, or prolonged loss or impairment of the function of any bodily
19 member or organ;

20 ~~(62)~~~~[(61)]~~ "Sexual abuse" includes but is not necessarily limited to any contacts or
21 interactions in which the parent, guardian, person in a position of authority or
22 special trust, as those terms are defined in KRS 532.045, or other person having
23 custodial control or supervision of the child or responsibility for his or her welfare,
24 uses or allows, permits, or encourages the use of the child for the purposes of the
25 sexual stimulation of the perpetrator or another person;

26 ~~(63)~~~~[(62)]~~ "Sexual exploitation" includes but is not limited to a situation in which a
27 parent, guardian, person in a position of authority or special trust, as those terms

1 are defined in KRS 532.045, or other person having custodial control or supervision
2 of a child or responsible for his or her welfare, allows, permits, or encourages the
3 child to engage in an act which constitutes prostitution under Kentucky law; or a
4 parent, guardian, person in a position of authority or special trust, as those terms
5 are defined in KRS 532.045, or other person having custodial control or supervision
6 of a child or responsible for his or her welfare, allows, permits, or encourages the
7 child to engage in an act of obscene or pornographic photographing, filming, or
8 depicting of a child as provided for under Kentucky law;

9 ~~(64)~~~~((63))~~ "Social service worker" means any employee of the cabinet or any private
10 agency designated as such by the secretary of the cabinet or a social worker
11 employed by a county or city who has been approved by the cabinet to provide,
12 under its supervision, services to families and children;

13 ~~(65)~~~~((64))~~ "Staff secure facility for residential treatment" means any setting which
14 assures that all entrances and exits are under the exclusive control of the facility
15 staff, and in which a child may reside for the purpose of receiving treatment;

16 ~~(66)~~~~((65))~~ (a) "Status offense action" is any action brought in the interest of a child
17 who is accused of committing acts, which if committed by an adult, would not
18 be a crime. Such behavior shall not be considered criminal or delinquent and
19 such children shall be termed status offenders. Status offenses shall include:

- 20 1. Beyond the control of school or beyond the control of parents;
- 21 2. Habitual runaway;
- 22 3. Habitual truant; and
- 23 4. Alcohol offenses as provided in KRS 244.085.

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

26 ~~(67)~~~~((66))~~ "Take into custody" means the procedure by which a peace officer or other
27 authorized person initially assumes custody of a child. A child may be taken into

1 custody for a period of time not to exceed two (2) hours;

2 ~~(68)~~~~((67))~~ "Transitional living support" means all benefits to which an eligible youth is
3 entitled upon being granted extended or reinstated commitment to the cabinet by the
4 court;

5 ~~(69)~~~~((68))~~ "Transition plan" means a plan that is personalized at the direction of the
6 youth that:

7 (a) Includes specific options on housing, health insurance, education, local
8 opportunities for mentors and continuing support services, and workforce
9 supports and employment services; and

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

11 ~~(70)~~~~((69))~~ "Valid court order" means a court order issued by a judge to a child alleged or
12 found to be a status offender:

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

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

15 (c) Who was given written and verbal warning of the consequences of the
16 violation of the order at the time the order was issued and whose attorney or
17 parent or legal guardian was also provided with a written notice of the
18 consequences of violation of the order, which notification is reflected in the
19 record of the court proceedings; and

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

22 ~~(71)~~~~((70))~~ "Violation" means any offense, other than a traffic infraction, for which a
23 sentence of a fine only can be imposed;

24 ~~(72)~~~~((71))~~ "Youth alternative center" means a nonsecure facility, approved by the
25 Department of Juvenile Justice, for the detention of juveniles, both prior to
26 adjudication and after adjudication, which meets the criteria specified in KRS
27 15A.320; and

1 ~~(73)~~~~(72)~~ "Youthful offender" means any person regardless of age, transferred to Circuit
2 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently
3 convicted in Circuit Court.

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

5 (1) (a) Upon receipt of a report alleging abuse ~~for neglect~~ by a parent, guardian,
6 fictive kin, person in a position of authority, person in a position of special
7 trust, or person exercising custodial control or supervision, **as those terms are**
8 **defined in KRS 532.045**, pursuant to KRS 620.030(1) or (2), or a report
9 alleging a child is a victim of human trafficking pursuant to KRS 620.030(3),
10 the recipient of the report shall immediately notify the cabinet or its
11 designated representative, the local law enforcement agency or the
12 Department of Kentucky State Police, and the Commonwealth's or county
13 attorney of the receipt of the report. If any agency listed above is the reporting
14 source, the recipient shall immediately notify the cabinet or its designated
15 representative, the local law enforcement agency, the Department of
16 Kentucky State Police, and the Commonwealth's or county attorney of the
17 receipt of the report.

18 (b) Based upon the allegation in the report, the cabinet shall immediately make an
19 initial determination as to the risk of harm and immediate safety of the child.
20 Based upon the level of risk determined, the cabinet shall investigate the
21 allegation or accept the report for an assessment of family needs and, if
22 appropriate, may provide or make referral to any community-based services
23 necessary to reduce risk to the child and to provide family support. A report of
24 sexual abuse or human trafficking of a child shall be considered high risk and
25 shall not be referred to any other community agency.

26 (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and
27 holidays, make a written report to the Commonwealth's or county attorney

1 and the local law enforcement agency or the Department of Kentucky State
2 Police concerning the action that has been taken on the investigation.

3 (d) If the report alleges abuse ~~for neglect~~ by someone other than a parent,
4 guardian, fictive kin, person in a position of authority, person in a position of
5 special trust, or person exercising custodial control or supervision, **as those**
6 **terms are defined in KRS 532.045**, or the human trafficking of a child, the
7 cabinet shall immediately notify the Commonwealth's or county attorney and
8 the local law enforcement agency or the Department of Kentucky State Police.

9 (2) (a) Upon receipt of a report alleging **neglect or** dependency pursuant to KRS
10 620.030(1) and (2), the recipient shall immediately notify the cabinet or its
11 designated representative.

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

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

24 (3) If the cabinet or its designated representative receives a report of abuse by a person
25 other than a parent, guardian, fictive kin, person in a position of authority, person in
26 a position of special trust, or other person exercising custodial control or
27 supervision of a child, **as those terms are defined in KRS 532.045**, it shall

1 immediately notify the local law enforcement agency or the Department of
2 Kentucky State Police and the Commonwealth's or county attorney of the receipt of
3 the report and its contents, and they shall investigate the matter. The cabinet or its
4 designated representative shall participate in an investigation of noncustodial
5 physical abuse or neglect at the request of the local law enforcement agency or the
6 Department of Kentucky State Police. The cabinet shall participate in all
7 investigations of reported or suspected sexual abuse or human trafficking of a child.

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

11 (5) (a) ~~[(If,]~~After receiving the report, the law enforcement officer, the cabinet, or its
12 designated representative ~~[cannot gain admission to the location of the~~
13 ~~child,]~~**shall seek** a search warrant **for admission to the location of the child**
14 **unless admission has already been granted by informed consent**~~[shall be~~
15 ~~requested from, and may be issued by, the judge to the appropriate law~~
16 ~~enforcement official upon probable cause that the child is dependent,~~
17 ~~neglected, or abused].~~ If, pursuant to a search~~[under a warrant]~~, a child is
18 discovered and appears to be in imminent danger, the child may be removed
19 by the law enforcement officer.

20 **(b) Any interview by the cabinet or its designated representative of a child,**
21 **parent, or other party to the case shall be recorded and retained for a period**
22 **of five (5) years.**

23 **(c)**~~[(b)]~~ If a child who is in a hospital or under the immediate care of a physician
24 appears to be in imminent danger if he or she is returned to the persons having
25 custody of him or her, the physician or hospital administrator may hold the
26 child without court order, provided that a request is made to the court for an
27 emergency custody order at the earliest practicable time, not to exceed

1 seventy-two (72) hours.

2 ~~(d)~~~~(e)~~ Any appropriate law enforcement officer may take a child into
3 protective custody and may hold that child in protective custody without the
4 consent of the parent or other person exercising custodial control or
5 supervision if there exist reasonable grounds for the officer to believe that the
6 child is in danger of imminent death or serious physical injury, is being
7 sexually abused, or is a victim of human trafficking and that the parents or
8 other person exercising custodial control or supervision are unable or
9 unwilling to protect the child. The officer or the person to whom the officer
10 entrusts the child shall, within twelve (12) hours of taking the child into
11 protective custody, request the court to issue an emergency custody order.

12 ~~(e)~~~~(d)~~ When a law enforcement officer, hospital administrator, or physician
13 takes a child into custody without the consent of the parent or other person
14 exercising custodial control or supervision, he or she shall provide written
15 notice to the parent or other person stating the reasons for removal of the
16 child. Failure of the parent or other person to receive notice shall not, by
17 itself, be cause for civil or criminal liability.

18 ~~(f)~~~~(e)~~ 1. If a report includes a child fatality or near fatality, and the law
19 enforcement officer has reasonable grounds to believe any parent or
20 person exercising custodial control or supervision of the child was under
21 the influence of alcohol or drugs at the time the fatality or near fatality
22 occurred, the law enforcement officer shall request a test of blood,
23 breath, or urine from that person.

24 2. If, after making the request, consent is not given for the test of blood,
25 breath, or urine, a search warrant shall be requested from and may be
26 issued by the judge to the appropriate law enforcement official upon
27 probable cause that a child fatality or near fatality has occurred and that

1 the person exercising custodial control or supervision of the child at the
2 time of the fatality or near fatality was under the influence.

3 3. Any test requested under this section shall be conducted pursuant to the
4 testing procedures and requirements in KRS 189A.103.

5 (6) To the extent practicable and when in the best interest of a child alleged to have
6 been abused, interviews with the child shall be conducted at a children's advocacy
7 center.

8 (7) (a) One (1) or more multidisciplinary teams may be established in every county
9 or group of contiguous counties.

10 (b) Membership of the multidisciplinary team shall include but shall not be
11 limited to social service workers employed by the Cabinet for Health and
12 Family Services and law enforcement officers. Additional team members may
13 include Commonwealth's and county attorneys, children's advocacy center
14 staff, mental health professionals, medical professionals, victim advocates
15 including advocates for victims of human trafficking, educators, and other
16 related professionals, as deemed appropriate.

17 (c) The multidisciplinary team shall review child sexual abuse cases and child
18 human trafficking cases involving commercial sexual activity referred by
19 participating professionals, including those in which the alleged perpetrator
20 does not have custodial control or supervision of the child or is not
21 responsible for the child's welfare. The purpose of the multidisciplinary team
22 shall be to review investigations, assess service delivery, and to facilitate
23 efficient and appropriate disposition of cases through the criminal justice
24 system.

25 (d) The team shall hold regularly scheduled meetings if new reports of sexual
26 abuse or child human trafficking cases involving commercial sexual activity
27 are received or if active cases exist. At each meeting, each active case shall be

- 1 presented and the agencies' responses assessed.
- 2 (e) The multidisciplinary team shall provide an annual report to the public of
3 nonidentifying case information to allow assessment of the processing and
4 disposition of child sexual abuse cases and child human trafficking cases
5 involving commercial sexual activity.
- 6 (f) Multidisciplinary team members and anyone invited by the multidisciplinary
7 team to participate in a meeting shall not divulge case information, including
8 information regarding the identity of the victim or source of the report. Team
9 members and others attending meetings shall sign a confidentiality statement
10 that is consistent with statutory prohibitions on disclosure of this information.
- 11 (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660,
12 develop a local protocol consistent with the model protocol issued by the
13 Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local
14 team shall submit the protocol to the commission for review and approval.
- 15 (h) The multidisciplinary team review of a case may include information from
16 reports generated by agencies, organizations, or individuals that are
17 responsible for investigation, prosecution, or treatment in the case, KRS
18 610.320 to KRS 610.340 notwithstanding.
- 19 (i) To the extent practicable, multidisciplinary teams shall be staffed by the local
20 children's advocacy center.
- 21 (8) Nothing in this section shall limit the cabinet's investigatory authority under KRS
22 620.050 or any other obligation imposed by law.
- 23 ➔Section 3. KRS 620.050 is amended to read as follows:
- 24 (1) Anyone acting upon reasonable cause in the making of a report or acting under
25 KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil
26 or criminal, that might otherwise be incurred or imposed. Any such participant shall
27 have the same immunity with respect to participation in any judicial proceeding

- 1 resulting from such report or action. However, any person who knowingly makes a
2 false report and does so with malice shall be guilty of a Class A misdemeanor.
- 3 (2) Any employee or designated agent of a children's advocacy center shall be immune
4 from any civil liability arising from performance within the scope of the person's
5 duties as provided in KRS 620.030 to 620.050. Any such person shall have the
6 same immunity with respect to participation in any judicial proceeding. Nothing in
7 this subsection shall limit liability for negligence. Upon the request of an employee
8 or designated agent of a children's advocacy center, the Attorney General shall
9 provide for the defense of any civil action brought against the employee or
10 designated agent as provided under KRS 12.211 to 12.215.
- 11 (3) Neither the husband-wife nor any professional-client/patient privilege, except the
12 attorney-client and clergy-penitent privilege, shall be a ground for refusing to report
13 under this section or for excluding evidence regarding a dependent, neglected, or
14 abused child or the cause thereof, in any judicial proceedings resulting from a report
15 pursuant to this section. This subsection shall also apply in any criminal proceeding
16 in District or Circuit Court regarding a dependent, neglected, or abused child.
- 17 (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this
18 chapter, the cabinet as the designated agency or its delegated representative shall
19 initiate a prompt investigation or assessment of family needs, take necessary action,
20 and shall offer protective services toward safeguarding the welfare of the child. The
21 cabinet shall work toward preventing further dependency, neglect, or abuse of the
22 child or any other child under the same care, and preserve and strengthen family
23 life, where possible, by enhancing parental capacity for adequate child care.
- 24 (5) The report of suspected child abuse, neglect, or dependency and all information
25 obtained by the cabinet or its delegated representative, as a result of an investigation
26 or assessment made pursuant to this chapter, except for those records provided for
27 in subsection (6) of this section, shall not be divulged to anyone except:

- 1 (a) Persons suspected of causing dependency, neglect, or abuse;
- 2 (b) The custodial parent or legal guardian of the child alleged to be dependent,
3 neglected, or abused;
- 4 (c) Persons within the cabinet with a legitimate interest or responsibility related
5 to the case;
- 6 (d) A licensed child-caring facility or child-placing agency evaluating placement
7 for or serving a child who is believed to be the victim of an abuse, neglect, or
8 dependency report;
- 9 (e) Other medical, psychological, educational, or social service agencies, child
10 care administrators, corrections personnel, or law enforcement agencies,
11 including the county attorney's office, the coroner, and the local child fatality
12 response team, that have a legitimate interest in the case;
- 13 (f) A noncustodial parent when the dependency, neglect, or abuse is
14 substantiated;
- 15 (g) Members of multidisciplinary teams as defined by KRS 620.020 and which
16 operate pursuant to KRS 431.600;
- 17 (h) Employees or designated agents of a children's advocacy center;
- 18 (i) Those persons so authorized by court order; or
- 19 (j) The external child fatality and near fatality review panel established by KRS
20 620.055.

21 **(6) Any interview by the cabinet or its designated representative of a child, parent, or**
22 **other party to the case shall be recorded and retained for a period of five (5)**
23 **years.**

24 ~~(7)(6)~~ (a) Files, reports, notes, photographs, records, electronic and other
25 communications, and working papers used or developed by a children's advocacy
26 center in providing services under this chapter are confidential and shall not be
27 disclosed except to the following persons:

- 1 1. Staff employed by the cabinet, law enforcement officers, and
2 Commonwealth's and county attorneys who are directly involved in the
3 investigation or prosecution of the case, including a cabinet
4 investigation or assessment of child abuse, neglect, and dependency in
5 accordance with this chapter;
- 6 2. Medical and mental health professionals listed by name in a release of
7 information signed by the guardian of the child, provided that the
8 information shared is limited to that necessary to promote the physical
9 or psychological health of the child or to treat the child for abuse-related
10 symptoms;
- 11 3. The court and those persons so authorized by a court order;
- 12 4. The external child fatality and near fatality review panel established by
13 KRS 620.055; and
- 14 5. The parties to an administrative hearing conducted by the cabinet or its
15 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
16 substantiated finding of abuse or neglect. The children's advocacy center
17 may, in its sole discretion, provide testimony in lieu of files, reports,
18 notes, photographs, records, electronic and other communications, and
19 working papers used or developed by the center if the center determines
20 that the release poses a threat to the safety or well-being of the child, or
21 would be in the best interests of the child. Following the administrative
22 hearing and any judicial review, the parties to the administrative hearing
23 shall return all files, reports, notes, photographs, records, electronic and
24 other communications, and working papers used or developed by the
25 children's advocacy center to the center.
- 26 (b) The provisions of this subsection shall not be construed as to contravene the
27 Rules of Criminal Procedure relating to discovery.

1 ~~(8)~~~~(7)~~ Nothing in this section shall prohibit a parent or guardian from accessing
2 records for his or her child providing that the parent or guardian is not currently
3 under investigation by a law enforcement agency or the cabinet relating to the abuse
4 or neglect of a child.

5 ~~(9)~~~~(8)~~ Nothing in this section shall prohibit employees or designated agents of a
6 children's advocacy center from disclosing information during a multidisciplinary
7 team review of a child sexual abuse case as set forth under KRS 620.040. Persons
8 receiving this information shall sign a confidentiality statement consistent with
9 statutory prohibitions on disclosure of this information.

10 ~~(10)~~~~(9)~~ Employees or designated agents of a children's advocacy center may confirm
11 to another children's advocacy center that a child has been seen for services. If an
12 information release has been signed by the guardian of the child, a children's
13 advocacy center may disclose relevant information to another children's advocacy
14 center.

15 ~~(11)~~~~(10)~~ (a) An interview of a child recorded at a children's advocacy center shall
16 not be duplicated, except that the Commonwealth's or county attorney
17 prosecuting the case may:

- 18 1. Make and retain one (1) copy of the interview; and
- 19 2. Make one (1) copy for the defendant's or respondent's counsel that the
20 defendant's or respondent's counsel shall not duplicate.

21 (b) The defendant's or respondent's counsel shall file the copy with the court clerk
22 at the close of the case.

23 (c) Unless objected to by the victim or victims, the court, on its own motion, or
24 on motion of the attorney for the Commonwealth shall order all recorded
25 interviews that are introduced into evidence or are in the possession of the
26 children's advocacy center, law enforcement, the prosecution, or the court to
27 be sealed.

1 (d) The provisions of this subsection shall not be construed as to contravene the
2 Rules of Criminal Procedure relating to discovery.

3 (12)~~[(11)]~~ Identifying information concerning the individual initiating the report under
4 KRS 620.030 shall not be disclosed except:

- 5 (a) To law enforcement officials that have a legitimate interest in the case;
6 (b) To the agency designated by the cabinet to investigate or assess the report;
7 (c) To members of multidisciplinary teams as defined by KRS 620.020 that
8 operated under KRS 431.600
9 (d) Under a court order, after the court has conducted an in camera review of the
10 record of the state related to the report and has found reasonable cause to
11 believe that the reporter knowingly made a false report; or
12 (e) The external child fatality and near fatality review panel established by KRS
13 620.055.

14 (13)~~[(12)]~~ (a) Information may be publicly disclosed by the cabinet in a case where
15 child abuse or neglect has resulted in a child fatality or near fatality.

16 (b) The cabinet shall conduct an internal review of any case where child abuse or
17 neglect has resulted in a child fatality or near fatality and the cabinet had prior
18 involvement with the child or family. The cabinet shall prepare a summary
19 that includes an account of:

- 20 1. The cabinet's actions and any policy or personnel changes taken or to be
21 taken, including the results of appeals, as a result of the findings from
22 the internal review; and
23 2. Any cooperation, assistance, or information from any agency of the state
24 or any other agency, institution, or facility providing services to the
25 child or family that were requested and received by the cabinet during
26 the investigation of a child fatality or near fatality.

27 (c) The cabinet shall submit a report by September 1 of each year containing an

1 analysis of all summaries of internal reviews occurring during the previous
2 year and an analysis of historical trends to the Governor, the General
3 Assembly, and the state child fatality review team created under KRS
4 211.684.

5 (14)~~[(13)]~~ When an adult who is the subject of information made confidential by
6 subsection (5) of this section publicly reveals or causes to be revealed any
7 significant part of the confidential matter or information, the confidentiality
8 afforded by subsection (5) of this section is presumed voluntarily waived, and
9 confidential information and records about the person making or causing the public
10 disclosure, not already disclosed but related to the information made public, may be
11 disclosed if disclosure is in the best interest of the child or is necessary for the
12 administration of the cabinet's duties under this chapter.

13 (15)~~[(14)]~~ As a result of any report of suspected child abuse or neglect, photographs and
14 X-rays or other appropriate medical diagnostic procedures may be taken or caused
15 to be taken, without the consent of the parent or other person exercising custodial
16 control or supervision of the child, as a part of the medical evaluation or
17 investigation of these reports. These photographs and X-rays or results of other
18 medical diagnostic procedures may be introduced into evidence in any subsequent
19 judicial proceedings or an administrative hearing conducted by the cabinet or its
20 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
21 substantiated finding of child abuse or neglect. The person performing the
22 diagnostic procedures or taking photographs or X-rays shall be immune from
23 criminal or civil liability for having performed the act. Nothing herein shall limit
24 liability for negligence.

25 (16)~~[(15)]~~ In accordance with 42 U.S.C. sec. 671, the cabinet shall share information
26 about a child in the custody of the cabinet with a relative or a parent of the child's
27 sibling for the purposes of:

- 1 (a) Evaluating or arranging a placement for the child;
- 2 (b) Arranging appropriate treatment services for the child; or
- 3 (c) Establishing visitation between the child and a relative, including a sibling of
- 4 the child.

5 ~~(17)~~~~(16)~~ In accordance with 42 U.S.C. sec. 671, the cabinet shall, in the case of
6 siblings removed from their home who are not jointly placed, provide for frequent
7 visitation or other ongoing interaction between the siblings, unless the cabinet
8 determines that frequent visitation or other ongoing interaction would be contrary to
9 the safety or well-being of any of the siblings.

10 ➔Section 4. KRS 620.072 is amended to read as follows:

11 (1) If the cabinet's initial determination as to the risk of harm to and immediate safety
12 of an alleged abused ~~for neglected~~ child as defined in KRS 600.020 requires an
13 investigation or assessment pursuant to administrative regulations promulgated by
14 the cabinet, including consideration of information on the nature and extent of a
15 present danger or threat of danger to the child or cabinet staff, and if:

16 (a) The investigation requires a visit to the residence or location where the
17 reported abuse ~~for neglect~~ occurred, the cabinet shall make the visit
18 unannounced; or

19 (b) The assessment requires a visit to the residence or location where the reported
20 abuse ~~for neglect~~ occurred, the cabinet shall make the visit announced or
21 unannounced;

22 in addition to any other actions taken to protect the child.

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

27 (3) If there is reason to believe a child is in imminent danger~~, or if a parent or~~

1 ~~caretaker of a child refuses the cabinet entry to a child's home or refuses to allow a~~
2 ~~child to be interviewed,]~~ the cabinet shall~~[may]~~ request assistance:

3 (a) From law enforcement; or

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

5 (4) A school or a child-care provider shall provide the cabinet access to a child subject
6 to an investigation or assessment without parental consent only if there is a court
7 order.

8 ➔Section 5. KRS 625.090 is amended to read as follows:

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

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

14 2. The child is found to be an abused ~~for neglected~~ child, as defined in
15 KRS 600.020~~(4)~~, by the Circuit Court in this proceeding;

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

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

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

27 c. In the absence of a prescription for the treatment of a legitimate

1 medical condition, agrees, prior to discharge from the hospital, to
2 participate in a court-ordered assessment by a drug treatment
3 provider and the assigning of a certified peer support specialist for
4 referral to appropriate treatment, and agrees to participate in
5 treatment which shall commence within ninety (90) days after the
6 birth; or

7 4. The parent has been convicted of a criminal charge relating to the
8 physical or sexual abuse ~~for neglect~~ of any child and that physical or
9 sexual abuse ~~neglect, or emotional injury~~ to the child named in the
10 present termination action is likely to occur if the parental rights are not
11 terminated;

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

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

17 (c) Termination would be in the best interest of the child.

18 (2) No termination of parental rights shall be ordered unless the Circuit Court also finds
19 by clear and convincing evidence the existence of one (1) or more of the following
20 grounds:

21 (a) That the parent has abandoned the child for a period of not less than ninety
22 (90) days;

23 (b) That the parent has inflicted or allowed to be inflicted upon the child, by other
24 than accidental means, serious physical injury;

25 (c) That the parent has continuously or repeatedly inflicted or allowed to be
26 inflicted upon the child, by other than accidental means, serious physical
27 injury or emotional harm;

- 1 (d) That the parent has been convicted of a felony that involved the infliction of
2 serious physical injury to any child;
- 3 (e) That the parent, for a period of not less than six (6) months, has continuously
4 or repeatedly failed or refused to provide or has been substantially incapable
5 of providing essential parental care and protection for the child and that there
6 is no reasonable expectation of improvement in parental care and protection,
7 considering the age of the child;
- 8 (f) That the parent has caused or allowed the child to be sexually abused or
9 exploited;
- 10 (g) That the parent, for reasons other than poverty alone, has continuously or
11 repeatedly failed to provide or is incapable of providing essential food,
12 clothing, shelter, medical care, or education reasonably necessary and
13 available for the child's well-being and that there is no reasonable expectation
14 of significant improvement in the parent's conduct in the immediately
15 foreseeable future, considering the age of the child;
- 16 (h) That:
- 17 1. The parent's parental rights to another child have been involuntarily
18 terminated;
- 19 2. The child named in the present termination action was born subsequent
20 to or during the pendency of the previous termination; and
- 21 3. The conditions or factors which were the basis for the previous
22 termination finding have not been corrected;
- 23 (i) That the parent has been convicted in a criminal proceeding of having caused
24 or contributed to the death of another child as a result of physical or sexual
25 abuse or neglect;
- 26 (j) That the child has been in foster care under the responsibility of the cabinet
27 for fifteen (15) cumulative months out of forty-eight (48) months preceding

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

1 concerning the reunification services offered by the cabinet and whether additional
2 services would be likely to bring about lasting parental adjustment enabling a return
3 of the child to the parent.

4 (5) If the parent proves by a preponderance of the evidence that the child will not
5 continue to be an abused ~~for neglected~~ child as defined in KRS 600.020~~[(1)]~~ if
6 returned to the parent the court in its discretion may determine not to terminate
7 parental rights.

8 (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
9 findings of fact, conclusions of law, and a decision as to each parent-respondent
10 within thirty (30) days either:

11 (a) Terminating the right of the parent; or

12 (b) Dismissing the petition and stating whether the child shall be returned to the
13 parent or shall remain in the custody of the state.

14 ➔Section 6. KRS 620.060 is amended to read as follows:

15 (1) The court for the county where the child ordinarily resides or will reside or the
16 county where the child is present may issue an ex parte emergency custody order
17 when it appears to the court that removal is in the best interest of the child and that
18 there are reasonable grounds to believe, as supported by affidavit or by recorded
19 sworn testimony, that one (1) or more of the following conditions exist and that the
20 parents or other person exercising custodial control or supervision are unable or
21 unwilling to protect the child:

22 (a) The child is in danger of imminent death or serious physical injury or is being
23 sexually abused;

24 (b) The parent has repeatedly inflicted or allowed to be inflicted by other than
25 accidental means serious physical injury~~[- or emotional injury]~~. This
26 ~~condition~~ shall not include **physical discipline of a child when it:**

27 **1. Is reasonable and moderate;**

1 2. Is inflicted:

2 a. By a parent, guardian, or person in a position of authority or
3 special trust; and

4 b. For purposes of restraining or correcting the child; and

5 3. Does not otherwise constitute cruelty~~reasonable and ordinary~~
6 ~~discipline recognized in the community where the child lives, as long as~~
7 ~~reasonable and ordinary discipline does not result in abuse or neglect as~~
8 ~~defined in KRS 600.020(1)]; or~~

9 (c) The child is in immediate danger due to the parent's failure or refusal to
10 provide for the safety or needs of the child.

11 (2) Custody may be placed with a relative taking into account the wishes of the
12 custodial parent and child or any other appropriate person or agency including the
13 cabinet.

14 (3) An emergency custody order shall be effective no longer than seventy-two (72)
15 hours, exclusive of weekends and holidays, unless there is a temporary removal
16 hearing with oral or other notice to the county attorney and the parent or other
17 person exercising custodial control or supervision of the child, to determine if the
18 child should be held for a longer period. The seventy-two (72) hour period also may
19 be extended or delayed upon the waiver or request of the child's parent or other
20 person exercising custodial control or supervision.

21 (4) Any person authorized to serve process shall serve the parent or other person
22 exercising custodial control or supervision with a copy of the emergency custody
23 order. If such person cannot be found, the sheriff shall make a good faith effort to
24 notify the nearest known relative, neighbor, or other person familiar with the child.

25 (5) Within seventy-two (72) hours of the taking of a child into custody without the
26 consent of his or her parent or other person exercising custodial control or
27 supervision, a petition shall be filed pursuant to this chapter.

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

3 ➔Section 7. KRS 15.900 is amended to read as follows:

4 As used in KRS 15.900 to 15.940:

- 5 (1) "Abused ~~for neglected~~ child" has the same meaning as in KRS 600.020;
- 6 (2) "Child" means a person under eighteen (18) years of age;
- 7 (3) "Child sexual abuse and exploitation" means harm to a child's health or welfare by
8 any person, responsible or not for the child's health or welfare, which harm occurs
9 or is threatened through nonaccidental sexual contact which includes violations of
10 KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320, and 531.370;
- 11 (4) "Community resource organization" means an organization which meets the criteria
12 described in KRS 15.940;

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

14 **(6)**~~[(5)]~~ "State board" means the State Child Abuse and Neglect Prevention Board
15 created in KRS 15.905;

16 **(7)**~~[(6)]~~ "Prevention program" means a system of direct provision of child sexual
17 abuse and exploitation or child abuse and neglect prevention services to a child,
18 parent, or guardian, but shall not include research programs related to prevention of
19 child sexual abuse and exploitation or child abuse and neglect; and

20 **(8)**~~[(7)]~~ "Trust fund" means the child victims' trust fund established in the Office of
21 the State Treasurer.

22 ➔Section 8. KRS 214.160 is amended to read as follows:

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

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

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

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

25 (4) The circumstances surrounding any positive toxicology finding shall be evaluated
26 by the attending person to determine if abuse or neglect of the infant, as defined
27 under KRS 600.020~~[(1)]~~, shall be reported to the state's child protective services

1 agency.

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

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

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

10 (8) Every physician or other person legally permitted to engage in attendance upon a
11 pregnant woman in the Commonwealth shall take or cause to be taken from the
12 woman a specimen of blood which shall be submitted for the purpose of serologic
13 testing for the presence of hepatitis B surface antigen to a laboratory certified by the
14 United States Department for Health and Human Services pursuant to Section 333
15 of the Public Health Service Act (42 U.S.C. sec. 263a), as revised by the Clinical
16 Laboratory Improvement Amendments (CLIA), Pub. L. No. 100-578.

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

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

- 25 1. The permanent medical record of the woman; and
26 2. The permanent medical record of the child or children she was pregnant
27 with at the time of the testing after the child or children are born.

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

10 ➔Section 9. KRS 199.473 is amended to read as follows:

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

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

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

22 (b) The cabinet shall conduct the home study for an applicant whose total gross
23 income is equal to or less than two hundred fifty percent (250%) of the federal
24 poverty level guidelines issued each year by the federal government, unless
25 the applicant submits a written request for the home study to be conducted by
26 a licensed child-placing agency or institution. Upon request, the cabinet shall
27 make information available to an applicant who does not meet the

1 requirements of this paragraph to assist the applicant in obtaining a home
2 study from a licensed child-placing agency approved to provide adoption
3 services.

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

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

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

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

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

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

26 (7) Any person who seeks temporary custody of a child prior to the secretary's ruling
27 on an application for adoption shall file a petition seeking temporary custody, with

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

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

25 (9) In any case where the cabinet refuses to approve the placement of a child for
26 adoption when requested by the parent or parents of the child, or refuses the request
27 of any person or persons that a child be placed with that person or those persons for

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

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

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

1 jurisdiction.

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

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

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

17 ➔Section 10. KRS 158.191 is amended to read as follows:

18 (1) As used in this section:

19 (a) "External health care provider" means a provider of health or mental health
20 services that is not employed by or contracted with the school district to
21 provide services to the district's students;

22 (b) "Health services" has the same meaning as in KRS 156.502;

23 (c) "Mental health services" means services provided by a school-based mental
24 health services provider as defined in KRS 158.4416 but shall not include
25 academic or career counseling; and

26 (d) "Parent" means a person who has legal custody or control of the student such
27 as a mother, father, or guardian.

- 1 (2) Upon a student's enrollment and at the beginning of each school year, the district
2 shall provide a notification to the student's parents listing each of the health services
3 and mental health services related to human sexuality, contraception, or family
4 planning available at the student's school and of the parents' right to withhold
5 consent or decline any of those specific services. A parent's consent to a health
6 service or mental health service under this subsection shall not waive the parent's
7 right to access the student's educational or health records held by the district or the
8 notifications required under subsection (3) of this section.
- 9 (3) Except as provided in subsection (5) of this section, as part of a school district's
10 effort to provide a safe and supportive learning environment for students, a school
11 shall notify a student's parents if:
- 12 (a) The school changes the health services or mental health services related to
13 human sexuality, contraception, or family planning that it provides, and shall
14 obtain parental consent prior to providing health services or mental health
15 services to the student; or
- 16 (b) School personnel make a referral:
- 17 1. For the student to receive a school's health services or mental health
18 services; or
- 19 2. To an external health care provider, for which parental consent shall be
20 obtained prior to the referral being made.
- 21 (4) School districts and district personnel shall respect the rights of parents to make
22 decisions regarding the upbringing and control of the student through procedures
23 encouraging students to discuss mental or physical health or life issues with their
24 parents or through facilitating the discussion with their parents.
- 25 (5) (a) The Kentucky Board of Education or the Kentucky Department of Education
26 shall not require or recommend that a local school district keep any student
27 information confidential from a student's parents. A district or school shall not

1 adopt policies or procedures with the intent of keeping any student
2 information confidential from parents.

3 (b) The Kentucky Board of Education or the Kentucky Department of Education
4 shall not require or recommend policies or procedures for the use of pronouns
5 that do not conform to a student's biological sex as indicated on the student's
6 original, unedited birth certificate issued at the time of birth pursuant to KRS
7 156.070(2)(g)2.

8 (c) A local school district shall not require school personnel or students to use
9 pronouns for students that do not conform to that particular student's
10 biological sex as referenced in paragraph (b) of this subsection.

11 (d) Nothing in this subsection shall prohibit a school district or district personnel
12 from withholding information from a parent if a reasonably prudent person
13 would believe, based on previous conduct and history, that the disclosure
14 would result in the child becoming a dependent child, ~~or~~ an abused child, or
15 a neglected child, as those terms are defined in KRS 600.020. The fact that
16 district personnel withhold information from a parent under this subsection
17 shall not in itself constitute evidence of failure to report dependency, neglect,
18 or abuse to the Cabinet for Health and Family Services under KRS 620.030.

19 (6) Prior to a well-being questionnaire or assessment, or a health screening form being
20 given to a child for research purposes, a school district shall provide the student's
21 parent with access to review the material and shall obtain parental consent. Parental
22 consent shall not be a general consent to these assessments or forms but shall be
23 required for each assessment or form. A parent's refusal to consent shall not be an
24 indicator of having a belief regarding the topic of the assessment or form.

25 (7) Nothing in this section shall:

26 (a) Prohibit a school district or the district's personnel from seeking or providing
27 emergency medical or mental health services for a student as outlined in the

1 district's policies; or

2 (b) Remove the duty to report pursuant to KRS 620.030 if district personnel has
3 reasonable cause to believe the child is a dependent child or an abused or
4 neglected child due to the risk of physical or emotional injury identified in
5 KRS 600.020(1)(a)2. or as otherwise provided in that statute.

6 ➔Section 11. KRS 620.055 is amended to read as follows:

7 (1) An external child fatality and near fatality review panel is hereby created and
8 established for the purpose of conducting comprehensive reviews of child fatalities
9 and near fatalities, reported to the Cabinet for Health and Family Services,
10 suspected to be a result of abuse or neglect. The panel shall be attached to the
11 Justice and Public Safety Cabinet for staff and administrative purposes.

12 (2) The external child fatality and near fatality review panel shall be composed of the
13 following five (5) ex officio nonvoting members and seventeen (17) voting
14 members:

15 (a) Two (2) members of the Kentucky General Assembly, one (1) appointed by
16 the President of the Senate and one (1) appointed by the Speaker of the House
17 of Representatives, who shall be ex officio nonvoting members;

18 (b) The commissioner of the Department for Community Based Services, who
19 shall be an ex officio nonvoting member;

20 (c) The commissioner of the Department for Public Health, who shall be an ex
21 officio nonvoting member;

22 (d) A family court judge selected by the Chief Justice of the Kentucky Supreme
23 Court, who shall be an ex officio nonvoting members;

24 (e) A pediatrician from the University of Kentucky's Department of Pediatrics
25 who is licensed and experienced in forensic medicine relating to child abuse
26 and neglect to be selected by the Attorney General from a list of three (3)
27 names provided by the dean of the University of Kentucky School of

- 1 Medicine;
- 2 (f) A pediatrician from the University of Louisville's Department of Pediatrics
- 3 who is licensed and experienced in forensic medicine relating to child abuse
- 4 and neglect to be selected by the Attorney General from a list of three (3)
- 5 names provided by the dean of the University of Louisville School of
- 6 Medicine;
- 7 (g) The state medical examiner or designee;
- 8 (h) A court-appointed special advocate (CASA) program director to be selected
- 9 by the Attorney General from a list of three (3) names provided by the
- 10 Kentucky CASA Association;
- 11 (i) A peace officer with experience investigating child abuse and neglect
- 12 fatalities and near fatalities to be selected by the Attorney General from a list
- 13 of three (3) names provided by the commissioner of the Kentucky State
- 14 Police;
- 15 (j) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by
- 16 the Attorney General from a list of three (3) names provided by the president
- 17 of the Prevent Child Abuse Kentucky, Inc. board of directors;
- 18 (k) A practicing local prosecutor to be selected by the Attorney General;
- 19 (l) The executive director of the Kentucky Domestic Violence Association or the
- 20 executive director's designee;
- 21 (m) The chairperson of the State Child Fatality Review Team established in
- 22 accordance with KRS 211.684 or the chairperson's designee;
- 23 (n) A practicing social work clinician to be selected by the Attorney General from
- 24 a list of three (3) names provided by the Board of Social Work;
- 25 (o) A practicing addiction counselor to be selected by the Attorney General from
- 26 a list of three (3) names provided by the Kentucky Association of Addiction
- 27 Professionals;

- 1 (p) A representative from the family resource and youth service centers to be
2 selected by the Attorney General from a list of three (3) names submitted by
3 the Cabinet for Health and Family Services;
- 4 (q) A representative of a community mental health center to be selected by the
5 Attorney General from a list of three (3) names provided by the Kentucky
6 Association of Regional Mental Health and Mental Retardation Programs,
7 Inc.;
- 8 (r) A member of a citizen foster care review board selected by the Chief Justice
9 of the Kentucky Supreme Court;
- 10 (s) An at-large representative who shall serve as chairperson to be selected by the
11 Secretary of State;
- 12 (t) The president of the Kentucky Coroners Association; and
- 13 (u) A practicing medication-assisted treatment provider to be selected by the
14 Attorney General from a list of three (3) names provided by the Kentucky
15 Board of Medical Licensure.
- 16 (3) (a) By August 1, 2013, the appointing authority or the appointing authorities, as
17 the case may be, shall have appointed panel members. Initial terms of
18 members, other than those serving ex officio, shall be staggered to provide
19 continuity. Initial appointments shall be: five (5) members for terms of one (1)
20 year, five (5) members for terms of two (2) years, and five (5) members for
21 terms of three (3) years, these terms to expire, in each instance, on June 30
22 and thereafter until a successor is appointed and accepts appointment.
- 23 (b) Upon the expiration of these initial staggered terms, successors shall be
24 appointed by the respective appointing authorities, for terms of two (2) years,
25 and until successors are appointed and accept their appointments. Members
26 shall be eligible for reappointment. Vacancies in the membership of the panel
27 shall be filled in the same manner as the original appointments.

- 1 (c) At any time, a panel member shall recuse himself or herself from the review
2 of a case if the panel member believes he or she has a personal or private
3 conflict of interest.
- 4 (d) If a voting panel member is absent from two (2) or more consecutive,
5 regularly scheduled meetings, the member shall be considered to have
6 resigned and shall be replaced with a new member in the same manner as the
7 original appointment.
- 8 (e) If a voting panel member is proven to have violated subsection (13) of this
9 section, the member shall be removed from the panel, and the member shall
10 be replaced with a new member in the same manner as the original
11 appointment.
- 12 (4) The panel shall meet at least quarterly and may meet upon the call of the
13 chairperson of the panel.
- 14 (5) Members of the panel shall receive no compensation for their duties related to the
15 panel, but may be reimbursed for expenses incurred in accordance with state
16 guidelines and administrative regulations.
- 17 (6) Each panel member shall be provided copies of all information set out in this
18 subsection, including but not limited to records and information, upon request, to be
19 gathered, unredacted, and submitted to the panel within thirty (30) days by the
20 Cabinet for Health and Family Services from the Department for Community Based
21 Services or any agency, organization, or entity involved with a child subject to a
22 fatality or near fatality:
- 23 (a) Cabinet for Health and Family Services records and documentation regarding
24 the deceased or injured child and his or her caregivers, residents of the home,
25 and persons supervising the child at the time of the incident that include all
26 records and documentation set out in this paragraph:
- 27 1. All prior and ongoing investigations, services, or contacts;

- 1 2. Any and all records of services to the family provided by agencies or
2 individuals contracted by the Cabinet for Health and Family Services;
3 and
4 3. All documentation of actions taken as a result of child fatality internal
5 reviews conducted pursuant to KRS 620.050(13)(~~(12)~~)(b);
6 (b) Licensing reports from the Cabinet for Health and Family Services, Office of
7 Inspector General, if an incident occurred in a licensed facility;
8 (c) All available records regarding protective services provided out of state;
9 (d) All records of services provided by the Department for Juvenile Justice
10 regarding the deceased or injured child and his or her caregivers, residents of
11 the home, and persons involved with the child at the time of the incident;
12 (e) Autopsy reports;
13 (f) Emergency medical service, fire department, law enforcement, coroner, and
14 other first responder reports, including but not limited to photos and
15 interviews with family members and witnesses;
16 (g) Medical records regarding the deceased or injured child, including but not
17 limited to all records and documentation set out in this paragraph:
18 1. Primary care records, including progress notes; developmental
19 milestones; growth charts that include head circumference; all
20 laboratory and X-ray requests and results; and birth record that includes
21 record of delivery type, complications, and initial physical exam of
22 baby;
23 2. In-home provider care notes about observations of the family, bonding,
24 others in home, and concerns;
25 3. Hospitalization and emergency department records;
26 4. Dental records;
27 5. Specialist records; and

- 1 6. All photographs of injuries of the child that are available;
- 2 (h) Educational records of the deceased or injured child, or other children residing
- 3 in the home where the incident occurred, including but not limited to the
- 4 records and documents set out in this paragraph:
- 5 1. Attendance records;
- 6 2. Special education services;
- 7 3. School-based health records; and
- 8 4. Documentation of any interaction and services provided to the children
- 9 and family.

10 The release of educational records shall be in compliance with the Family

11 Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its

12 implementing regulations;

- 13 (i) Head Start records or records from any other child care or early child care
- 14 provider;

- 15 (j) Records of any Family, Circuit, or District Court involvement with the
- 16 deceased or injured child and his or her caregivers, residents of the home and
- 17 persons involved with the child at the time of the incident that include but are
- 18 not limited to the juvenile and family court records and orders set out in this
- 19 paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:

- 20 1. Petitions;
- 21 2. Court reports by the Department for Community Based Services,
- 22 guardian ad litem, court-appointed special advocate, and the Citizen
- 23 Foster Care Review Board;
- 24 3. All orders of the court, including temporary, dispositional, or
- 25 adjudicatory; and
- 26 4. Documentation of annual or any other review by the court;

- 27 (k) Home visit records from the Department for Public Health or other services;

- 1 (l) All information on prior allegations of abuse or neglect and deaths of children
2 of adults residing in the household;
- 3 (m) All law enforcement records and documentation regarding the deceased or
4 injured child and his or her caregivers, residents of the home, and persons
5 involved with the child at the time of the incident; and
- 6 (n) Mental health records regarding the deceased or injured child and his or her
7 caregivers, residents of the home, and persons involved with the child at the
8 time of the incident.
- 9 (7) The panel may seek the advice of experts, such as persons specializing in the fields
10 of psychiatric and forensic medicine, nursing, psychology, social work, education,
11 law enforcement, family law, or other related fields, if the facts of a case warrant
12 additional expertise.
- 13 (8) The panel shall post updates after each meeting to the website of the Justice and
14 Public Safety Cabinet regarding case reviews, findings, and recommendations.
- 15 (9) The panel chairperson, or other requested persons, shall report a summary of the
16 panel's discussions and proposed or actual recommendations to the Interim Joint
17 Committee on Families and Children of the Kentucky General Assembly monthly
18 or at the request of a committee co-chair. The goal of the committee shall be to
19 ensure impartiality regarding the operations of the panel during its review process.
- 20 (10) (a) The panel shall publish an annual report by February 1 of each year consisting
21 of case reviews, findings, and recommendations for system and process
22 improvements to help prevent child fatalities and near fatalities that are due to
23 abuse and neglect. The report shall be submitted to the Governor, the
24 secretary of the Cabinet for Health and Family Services, the Chief Justice of
25 the Supreme Court, the Attorney General, the State Child Abuse and Neglect
26 Prevention Board established pursuant to KRS 15.905, and the director of the
27 Legislative Research Commission for distribution to the Interim Joint

1 Committee on Families and Children, and the Interim Joint Committee on
2 Judiciary.

3 (b) The panel shall determine which agency is responsible for implementing each
4 recommendation, and shall forward each recommendation in writing to the
5 appropriate agency.

6 (c) Any agency that receives a recommendation from the panel shall, within
7 ninety (90) days of receipt:

- 8 1. Respond to the panel with a written notice of intent to implement the
9 recommendation, an explanation of how the recommendation will be
10 implemented, and an approximate time frame of implementation; or
- 11 2. Respond to the panel with a written notice that the agency does not
12 intend to implement the recommendation, and a detailed explanation of
13 why the recommendation cannot be implemented.

14 (11) Information and record copies that are confidential under state or federal law and
15 are provided to the external child fatality and near fatality review panel by the
16 Cabinet for Health and Family Services, the Department for Community Based
17 Services, or any agency, organization, or entity for review shall not become the
18 information and records of the panel and shall not lose their confidentiality by
19 virtue of the panel's access to the information and records. The original information
20 and records used to generate information and record copies provided to the panel in
21 accordance with subsection (6) of this section shall be maintained by the
22 appropriate agency in accordance with state and federal law and shall be subject to
23 the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests
24 shall be made to the appropriate agency, not to the external child fatality and near
25 fatality review panel or any of the panel members. Information and record copies
26 provided to the panel for review shall be exempt from the Kentucky Open Records
27 Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies

1 of information and records provided to the panel involving an individual case shall
2 be destroyed by the Justice and Public Safety Cabinet.

3 (12) Notwithstanding any provision of law to the contrary, the portions of the external
4 child fatality and near fatality review panel meetings during which an individual
5 child fatality or near fatality case is reviewed or discussed by panel members may
6 be a closed session and subject to the provisions of KRS 61.815(1) and shall only
7 occur following the conclusion of an open session. At the conclusion of the closed
8 session, the panel shall immediately convene an open session and give a summary
9 of what occurred during the closed session.

10 (13) Each member of the external child fatality and near fatality review panel, any
11 person attending a closed panel session, and any person presenting information or
12 records on an individual child fatality or near fatality shall not release information
13 or records not available under the Kentucky Open Records Act, KRS 61.870 to
14 61.884 to the public.

15 (14) A member of the external child fatality and near fatality review panel shall not be
16 prohibited from making a good faith report to any state or federal agency of any
17 information or issue that the panel member believes should be reported or disclosed
18 in an effort to facilitate effectiveness and transparency in Kentucky's child
19 protective services.

20 (15) A member of the external child fatality and near fatality review panel shall not be
21 held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as
22 a result of any action taken or omitted in the performance of the member's duties
23 pursuant to this section and KRS 620.050, except for violations of subsection (11),
24 (12), or (13) of this section.

25 (16) The proceedings, records, opinions, and deliberations of the external child fatality
26 and near fatality review panel shall be privileged and shall not be subject to
27 discovery, subpoena, or introduction into evidence in any civil or criminal actions

1 in any manner that would directly or indirectly identify specific persons or cases
2 reviewed by the panel. Nothing in this subsection shall be construed to restrict or
3 limit the right to discover or use in any civil action any evidence that is
4 discoverable independent of the proceedings of the panel.

5 (17) The Legislative Oversight and Investigations Committee of the Kentucky General
6 Assembly shall conduct an annual evaluation of the external child fatality and near
7 fatality review panel established pursuant to this section to monitor the operations,
8 procedures, and recommendations of the panel and shall report its findings to the
9 General Assembly.