

1 AN ACT relating to parental rights.

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

3 ➔Section 1. KRS 199.011 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Adoption worker" means an employee of the cabinet so designated by the
6 secretary for health and family services, a social worker employed by a county or
7 city who has been approved by the cabinet to handle, under its supervision,
8 adoption placement services to children, or a social worker employed by or under
9 contract to a child-placing adoption agency;
- 10 (2) "Adult adopted person" means any adopted person who is twenty-one (21) years of
11 age or older;
- 12 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 13 (4) "Child" means any person who has not reached his ***or her*** eighteenth birthday;
- 14 (5) "Child-caring facility" means any institution or group home, including institutions
15 and group homes that are publicly operated, providing residential care on a twenty-
16 four (24) hour basis to children, not related by blood, adoption, or marriage to the
17 person maintaining the facility, other than an institution or group home certified by
18 an appropriate agency as operated primarily for educational or medical purposes, or
19 a residential program operated or contracted by the Department of Juvenile Justice
20 that maintains accreditation, or obtains accreditation within two (2) years of
21 opening from a nationally recognized accrediting organization;
- 22 (6) "Child-placing agency" means any agency licensed by the cabinet, which
23 supervises the placement of children in foster family homes or child-caring
24 facilities, or which places children for adoption;
- 25 (7) "Department" means the Department for Community Based Services;
- 26 **(8) "Disability" has the same meaning as in KRS 12.450;**
- 27 **(9)**~~(8)~~ "Family rehabilitation home" means a child-caring facility for appropriate

1 families and comprising not more than twelve (12) children and two (2) staff
2 persons;

3 (10)~~[(9)]~~ "Fictive kin" means an individual who is not related by birth, adoption, or
4 marriage to a child, but who has an emotionally significant relationship with the
5 child, or an emotionally significant relationship with a biological parent, siblings, or
6 half-siblings of the child in the case of a child from birth to twelve (12) months of
7 age, prior to placement;

8 (11)~~[(10)]~~ "Foster family home" means a private home in which children are placed for
9 foster family care under supervision of the cabinet or of a licensed child-placing
10 agency;

11 (12)~~[(11)]~~ "Group home" means a homelike facility, excluding Department of Juvenile
12 Justice-operated or -contracted facilities, for not more than eight (8) foster children,
13 not adjacent to or part of an institutional campus, operated by a sponsoring agency
14 for children who may participate in community activities and use community
15 resources;

16 (13)~~[(12)]~~ "Institution" means a child-caring facility providing care or maintenance for
17 nine (9) or more children;

18 (14)~~[(13)]~~ "Placement services" means those social services customarily provided by a
19 licensed child-placing or a public agency, which are necessary for the arrangement
20 and placement of children in foster family homes, child-placing facilities, or
21 adoptive homes. Placement services are provided through a licensed child-placing
22 or a public agency for children who cannot be cared for by their biological parents
23 and who need and can benefit from new and permanent family ties established
24 through legal adoption. Licensed child-placing agencies and public agencies have a
25 responsibility to act in the best interests of children, biological parents, and adoptive
26 parents by providing social services to all the parties involved in an adoption;

27 (15)~~[(14)]~~ "Rap back system" means a system that enables an authorized entity to

1 receive ongoing status notifications of any criminal history from the Department of
2 Kentucky State Police or the Federal Bureau of Investigation reported on an
3 individual whose fingerprints are registered in the system, upon approval and
4 implementation of the system;

5 ~~(16)~~~~(15)~~ "Reasonable and prudent parent standard" has the same meaning as in 42
6 U.S.C. sec. 675(10);

7 ~~(17)~~~~(16)~~ "Secretary" means the secretary for health and family services; and

8 ~~(18)~~~~(17)~~ "Voluntary and informed consent" means that at the time of the execution of
9 the consent, the consenting person was fully informed of the legal effect of the
10 consent, that the consenting person was not given or promised anything of value
11 except those expenses allowable under KRS 199.590(6), that the consenting person
12 was not coerced in any way to execute the consent, and that the consent was
13 voluntarily and knowingly given. If at the time of the execution of the consent the
14 consenting person was represented by independent legal counsel, there shall be a
15 presumption that the consent was voluntary and informed. The consent shall be in
16 writing, signed and sworn to by the consenting person, and include the following:

- 17 (a) Date, time, and place of the execution of the consent;
- 18 (b) Name of the child, if any, to be adopted, and the date and place of the child's
19 birth;
- 20 (c) Consenting person's relationship to the child;
- 21 (d) Identity of the proposed adoptive parents or a statement that the consenting
22 person does not desire to know the identification of the proposed adoptive
23 parents;
- 24 (e) 1. A statement that the consenting person understands that the consent will
25 be final and irrevocable under this paragraph unless withdrawn under
26 this paragraph.
- 27 2. If placement approval by the secretary is required, the voluntary and

1 informed consent shall become final and irrevocable seventy-two (72)
2 hours after the execution of the voluntary and informed consent. This
3 consent may be withdrawn only by written notification sent to the
4 proposed adoptive parent or the attorney for the proposed adoptive
5 parent on or before the expiration of the seventy-two (72) hours by
6 certified or registered mail and also by first-class mail.

7 3. If placement approval by the secretary is not required, the voluntary and
8 informed consent shall become final and irrevocable seventy-two (72)
9 hours after the execution of the voluntary and informed consent. This
10 consent may be withdrawn only by written notification sent to the
11 proposed adoptive parent or the attorney for the proposed adoptive
12 parent on or before the expiration of the seventy-two (72) hours by
13 certified or registered mail and also by first-class mail;

14 (f) Disposition of the child if the adoption is not adjudged;

15 (g) A statement that the consenting person has received a completed and signed
16 copy of the consent at the time of the execution of the consent;

17 (h) Name and address of the person who prepared the consent, name and address
18 of the person who reviewed and explained the consent to the consenting
19 person, and a verified statement from the consenting person that the consent
20 has been reviewed with and fully explained to the consenting person; and

21 (i) Total amount of the consenting person's legal fees, if any, for any purpose
22 related to the execution of the consent and the source of payment of the legal
23 fees.

24 ➔Section 2. KRS 199.471 is amended to read as follows:

25 Petitions for adoption of children placed for adoption by the cabinet or a licensed child-
26 placing institution or agency shall not be denied on the basis of the religious, ethnic,
27 racial, ~~for~~ interfaith background, or disability of the adoptive applicant, unless contrary

1 to the expressed wishes of the biological parent(s).

2 ➔Section 3. KRS 200.575 is amended to read as follows:

3 (1) As used in this section, unless the context otherwise requires:

4 (a) "Department" means the Department for Community Based Services; and

5 (b) "Family preservation services" means programs that:

6 1. Follow intensive, home-based service models with demonstrated
7 effectiveness in reducing or avoiding the need for out-of-home
8 placement;

9 2. Provide such services that result in lower costs than would out-of-home
10 placement; and

11 3. Employ specially trained caseworkers who shall:

12 a. Provide at least half of their services in the family's home or other
13 natural community setting;

14 b. Provide direct therapeutic services available twenty-four (24)
15 hours per day for a family;

16 c. Aid in the solution of practical problems that contribute to family
17 stress so as to effect improved parental performance and enhanced
18 functioning of the family unit;

19 d. Arrange for additional assistance, including but not limited to
20 housing, child care, education, and job training, emergency cash
21 grants, state and federally funded public assistance, and other basic
22 support needs;

23 *e. Make reasonable efforts that are individualized and based on a*
24 *parent's or legal guardian's specific disability as defined in KRS*
25 *12.450;*

26 *f. Make reasonable accommodations for a parent or legal guardian*
27 *with a disability as defined in KRS 12.450;* and

1 ~~g.[e.]~~ Supervise any paraprofessionals or "family aides" made available
2 to provide specialized services or skills to manage everyday
3 problems and better provide and care for children.

4 (2) The department shall be the lead administrative agency for family preservation
5 services and may receive funding for the implementation of these services. The
6 department shall:

- 7 (a) Provide the coordination of and planning for the implementation of family
8 preservation services;
9 (b) Provide standards for family preservation services programs;
10 (c) Monitor these services to ensure they meet measurable standards of
11 performance as set forth in state law and as developed by the department; and
12 (d) Provide the initial training and approve any ongoing training required by
13 providers of family preservation services.

14 (3) The department may provide family preservation services directly or may contract
15 to provide these services. In the event the department provides family preservation
16 services with state caseworkers, those caseworkers and cases shall be excluded for
17 the overall caseworker or case averages provided on a quarterly basis to the
18 Legislative Research Commission and the Governor's office under KRS 199.461.
19 Family preservation services caseworkers and cases shall be included in the report
20 as a separate category.

21 (4) If the department contracts to provide family preservation services, the contract
22 shall include:

- 23 (a) Requirements for acceptance of any client referred by the department for
24 family preservation services;
25 (b) Caseload standards per caseworker;
26 (c) Provision of twenty-four (24) hour crisis intervention services to families
27 served by the program;

- 1 (d) Minimum initial and ongoing training standards for family preservation
2 services staff; and
- 3 (e) Internal programmatic evaluation and cooperation with external evaluation as
4 directed by the department.
- 5 (5) Family preservation services shall be provided only to those children at imminent or
6 moderate risk of out-of-home placement:
- 7 (a) Who are at risk of commitment as dependent, abused, or neglected;
8 (b) Who are emotionally disturbed; or
9 (c) Whose families are in conflict such that they are unable to exercise reasonable
10 control of the child.
- 11 (6) Families in which children are at risk of recurring sexual abuse perpetrated by a
12 member of their immediate household who remains in close physical proximity to
13 the victim or whose continued safety from recurring abuse cannot be reasonably
14 ensured, shall not be eligible for family preservation services.
- 15 (7) The implementation of family preservation services shall be limited to those
16 situations where protection can be ensured for children, families, and the
17 community.
- 18 (8) The provision of family preservation services to a family shall constitute a
19 reasonable effort by the Cabinet for Health and Family Services to prevent the
20 removal of a child from the child's home under KRS 620.140, provided that the
21 family has received timely access to other services from the Cabinet for Health and
22 Family Services for which the family is eligible.
- 23 (9) Acceptance of family preservation services shall not be considered an admission to
24 any allegation that initiated the investigation of the family, nor shall refusal of
25 family preservation services be considered as evidence in any proceeding except
26 where the issue is whether the Cabinet for Health and Family Services has made
27 reasonable efforts to prevent removal of a child.

- 1 (10) No family preservation services program shall compel any family member to
2 engage in any activity or refrain from any activity, which is not reasonably related
3 to remedying any condition that gave rise, or which could reasonably give rise, to
4 any finding of child abuse, neglect, or dependency.
- 5 (11) The commissioner of the department shall conduct and submit to the Legislative
6 Research Commission an annual evaluation of the family preservation services,
7 which shall include the following:
- 8 (a) The number of families receiving family preservation services, the number of
9 children in those families, and the number of children in those families who
10 would have been placed in out-of-home care if the family preservation
11 services had not be available;
- 12 (b) Among those families receiving family preservation services, the number of
13 children placed outside the home;
- 14 (c) The average cost per family of providing family preservation services;
- 15 (d) The number of children who remain reunified with their families six (6)
16 months and one (1) year after completion of the family preservation services;
17 and
- 18 (e) An overall evaluation of the progress of family preservation services
19 programs during the preceding year, recommendations for improvements in
20 the delivery of this service, and a plan for the continued development of
21 family preservation services to ensure progress towards statewide availability.
- 22 (12) Nothing in this section shall prohibit the department from developing other in-home
23 services in accordance with its statutory authority to promulgate administrative
24 regulations in accordance with KRS Chapter 13A or to enter into contractual
25 arrangements in accordance with KRS Chapter 45.
- 26 ➔Section 4. KRS 600.020 is amended to read as follows:
- 27 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- 1 (1) "Abused or neglected child" means a child whose health or welfare is harmed or
2 threatened with harm when:
- 3 (a) His or her parent, guardian, person in a position of authority or special trust,
4 as defined in KRS 532.045, or other person exercising custodial control or
5 supervision of the child:
- 6 1. Inflicts or allows to be inflicted upon the child physical or emotional
7 injury as defined in this section by other than accidental means;
 - 8 2. Creates or allows to be created a risk of physical or emotional injury as
9 defined in this section to the child by other than accidental means;
 - 10 3. Engages in a pattern of conduct that renders the parent incapable of
11 caring for the immediate and ongoing needs of the child, including but
12 not limited to parental incapacity due to a substance use disorder as
13 defined in KRS 222.005;
 - 14 4. Continuously or repeatedly fails or refuses to provide essential parental
15 care and protection for the child, considering the age of the child;
 - 16 5. Commits or allows to be committed an act of sexual abuse, sexual
17 exploitation, or prostitution upon the child;
 - 18 6. Creates or allows to be created a risk that an act of sexual abuse, sexual
19 exploitation, or prostitution will be committed upon the child;
 - 20 7. Abandons or exploits the child;
 - 21 8. Does not provide the child with adequate care, supervision, food,
22 clothing, shelter, and education or medical care necessary for the child's
23 well-being when financially able to do so or offered financial or other
24 means to do so. A parent or other person exercising custodial control or
25 supervision of the child legitimately practicing the person's religious
26 beliefs shall not be considered a negligent parent solely because of
27 failure to provide specified medical treatment for a child for that reason

1 alone. This exception shall not preclude a court from ordering necessary
2 medical services for a child;

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

8 10. Commits or allows female genital mutilation as defined in KRS 508.125
9 to be committed; or

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

13 **(2) "Adaptive parenting equipment" means equipment or any other item that is used**
14 **to increase, maintain, or improve the parenting capabilities of a person with a**
15 **disability;**

16 **(3) "Adaptive parenting techniques" means strategies for accomplishing childcare**
17 **and other parenting tasks that enable a person with a disability to execute a task**
18 **safely for themselves and their children alone or in conjunction with adaptive**
19 **parenting equipment;**

20 ~~(4)~~~~(2)~~ "Age or developmentally appropriate" has the same meaning as in 42 U.S.C.
21 sec. 675(11);

22 ~~(5)~~~~(3)~~ "Aggravated circumstances" means the existence of one (1) or more of the
23 following conditions:

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

26 (b) The parent is incarcerated and will be unavailable to care for the child for a
27 period of at least one (1) year from the date of the child's entry into foster care

1 and there is no appropriate relative placement available during this period of
2 time;

3 (c) The parent has sexually abused the child and has refused available treatment;

4 (d) The parent has been found by the cabinet to have engaged in abuse of the
5 child that required removal from the parent's home two (2) or more times in
6 the past two (2) years; or

7 (e) The parent has caused the child serious physical injury;

8 ~~(6)~~~~(4)~~ "Beyond the control of parents" means a child who has repeatedly failed to
9 follow the reasonable directives of his or her parents, legal guardian, or person
10 exercising custodial control or supervision other than a state agency, which
11 behavior results in danger to the child or others, and which behavior does not
12 constitute behavior that would warrant the filing of a petition under KRS Chapter
13 645;

14 ~~(7)~~~~(5)~~ "Beyond the control of school" means any child who has been found by the
15 court to have repeatedly violated the lawful regulations for the government of the
16 school as provided in KRS 158.150, and as documented in writing by the school as
17 a part of the school's petition or as an attachment to the school's petition. The
18 petition or attachment shall describe the student's behavior and all intervention
19 strategies attempted by the school;

20 ~~(8)~~~~(6)~~ "Boarding home" means a privately owned and operated home for the
21 boarding and lodging of individuals which is approved by the Department of
22 Juvenile Justice or the cabinet for the placement of children committed to the
23 department or the cabinet;

24 ~~(9)~~~~(7)~~ "Cabinet" means the Cabinet for Health and Family Services;

25 ~~(10)~~~~(8)~~ "Certified juvenile facility staff" means individuals who meet the
26 qualifications of, and who have completed a course of education and training in
27 juvenile detention developed and approved by, the Department of Juvenile Justice

1 after consultation with other appropriate state agencies;

2 ~~(11)~~~~((9))~~ "Child" means any person who has not reached his or her eighteenth birthday,
3 unless otherwise provided;

4 ~~(12)~~~~((10))~~ "Child-caring facility" means any facility or group home other than a state
5 facility, Department of Juvenile Justice contract facility or group home, or one
6 certified by an appropriate agency as operated primarily for educational or medical
7 purposes, providing residential care on a twenty-four (24) hour basis to children not
8 related by blood, adoption, or marriage to the person maintaining the facility;

9 ~~(13)~~~~((11))~~ "Child-placing agency" means any agency, other than a state agency, which
10 supervises the placement of children in foster family homes or child-caring
11 facilities or which places children for adoption;

12 ~~(14)~~~~((12))~~ "Clinical treatment facility" means a facility with more than eight (8) beds
13 designated by the Department of Juvenile Justice or the cabinet for the treatment of
14 mentally ill children. The treatment program of such facilities shall be supervised
15 by a qualified mental health professional;

16 ~~(15)~~~~((13))~~ "Commitment" means an order of the court which places a child under the
17 custodial control or supervision of the Cabinet for Health and Family Services,
18 Department of Juvenile Justice, or another facility or agency until the child attains
19 the age of eighteen (18) unless otherwise provided by law;

20 ~~(16)~~~~((14))~~ "Community-based facility" means any nonsecure, homelike facility licensed,
21 operated, or permitted to operate by the Department of Juvenile Justice or the
22 cabinet, which is located within a reasonable proximity of the child's family and
23 home community, which affords the child the opportunity, if a Kentucky resident,
24 to continue family and community contact;

25 ~~(17)~~~~((15))~~ "Complaint" means a verified statement setting forth allegations in regard to
26 the child which contain sufficient facts for the formulation of a subsequent petition;

27 ~~(18)~~~~((16))~~ "Court" means the juvenile session of District Court unless a statute specifies

1 the adult session of District Court or the Circuit Court;

2 ~~(19)~~~~(17)~~ "Court-designated worker" means that organization or individual delegated by
3 the Administrative Office of the Courts for the purposes of placing children in
4 alternative placements prior to arraignment, conducting preliminary investigations,
5 and formulating, entering into, and supervising diversion agreements and
6 performing such other functions as authorized by law or court order;

7 ~~(20)~~~~(18)~~ "Deadly weapon" has the same meaning as it does in KRS 500.080;

8 ~~(21)~~~~(19)~~ "Department" means the Department for Community Based Services;

9 ~~(22)~~~~(20)~~ "Dependent child" means any child, other than an abused or neglected child,
10 who is under improper care, custody, control, or guardianship that is not due to an
11 intentional act of the parent, guardian, or person exercising custodial control or
12 supervision of the child;

13 ~~(23)~~~~(21)~~ "Detention" means the safe and temporary custody of a juvenile who is
14 accused of conduct subject to the jurisdiction of the court who requires a restricted
15 or closely supervised environment for his or her own or the community's protection;

16 ~~(24)~~~~(22)~~ "Detention hearing" means a hearing held by a judge or trial commissioner
17 within twenty-four (24) hours, exclusive of weekends and holidays, of the start of
18 any period of detention prior to adjudication;

19 ~~(25)~~ **"Disability" has the same meaning as in KRS 12.450;**

20 ~~(26)~~ **"Disability support services" means services that help a person with a disability**
21 **compensate for those aspects of the disability that affect the ability to care for a**
22 **child and that enable the person to fulfill parental responsibilities, and includes**
23 **specialized or adapted training, evaluations, assistance with effective use of**
24 **adaptive parenting equipment, and accommodations that enable a person with a**
25 **disability to benefit from other services such as braille text or sign language**
26 **interpretation;**

27 ~~(27)~~~~(23)~~ "Diversion agreement" means a mechanism designed to hold a child

1 accountable for his or her behavior and, if appropriate, securing services to serve
2 the best interest of the child and to provide redress for that behavior without court
3 action and without the creation of a formal court record;

4 (28)~~[(24)]~~ "Eligible youth" means a person who:

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

10 (29)~~[(25)]~~ "Emergency shelter" is a group home, private residence, foster home, or
11 similar homelike facility which provides temporary or emergency care of children
12 and adequate staff and services consistent with the needs of each child;

13 (30)~~[(26)]~~ "Emotional injury" means an injury to the mental or psychological capacity or
14 emotional stability of a child as evidenced by a substantial and observable
15 impairment in the child's ability to function within a normal range of performance
16 and behavior with due regard to his or her age, development, culture, and
17 environment as testified to by a qualified mental health professional;

18 (31)~~[(27)]~~ "Evidence-based practices" means policies, procedures, programs, and
19 practices proven by scientific research to reliably produce reductions in recidivism;

20 (32)~~[(28)]~~ "Fictive kin" means an individual who is not related by birth, adoption, or
21 marriage to a child, but who has an emotionally significant relationship with the
22 child, or an emotionally significant relationship with a biological parent, siblings, or
23 half-siblings of the child in the case of a child from birth to twelve (12) months of
24 age, prior to placement;

25 (33)~~[(29)]~~ "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

26 (34)~~[(30)]~~ "Foster family home" means a private home in which children are placed for
27 foster family care under supervision of the cabinet or a licensed child-placing

1 agency;

2 (35)~~[(31)]~~ "Graduated sanction" means any of a continuum of accountability measures,
3 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
4 that may include but are not limited to:

- 5 (a) Electronic monitoring;
- 6 (b) Drug and alcohol screening, testing, or monitoring;
- 7 (c) Day or evening reporting centers;
- 8 (d) Reporting requirements;
- 9 (e) Community service; and
- 10 (f) Rehabilitative interventions such as family counseling, substance abuse
11 treatment, restorative justice programs, and behavioral or mental health
12 treatment;

13 (36)~~[(32)]~~ "Habitual runaway" means any child who has been found by the court to have
14 been absent from his or her place of lawful residence without the permission of his
15 or her custodian for at least three (3) days during a one (1) year period;

16 (37)~~[(33)]~~ "Habitual truant" means any child who has been found by the court to have
17 been reported as a truant as defined in KRS 159.150(1) two (2) or more times
18 during a one (1) year period;

19 (38)~~[(34)]~~ "Hospital" means, except for purposes of KRS Chapter 645, a licensed private
20 or public facility, health care facility, or part thereof, which is approved by the
21 cabinet to treat children;

22 (39)~~[(35)]~~ "Independent living" means those activities necessary to assist a committed
23 child to establish independent living arrangements;

24 (40)~~[(36)]~~ "Informal adjustment" means an agreement reached among the parties, with
25 consultation, but not the consent, of the victim of the crime or other persons
26 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
27 after a petition has been filed, which is approved by the court, that the best interest

1 of the child would be served without formal adjudication and disposition;

2 ~~(41)~~~~[(37)]~~ "Intentionally" means, with respect to a result or to conduct described by a
3 statute which defines an offense, that the actor's conscious objective is to cause that
4 result or to engage in that conduct;

5 ~~(42)~~~~[(38)]~~ "Least restrictive alternative" means, except for purposes of KRS Chapter
6 645, that the program developed on the child's behalf is no more harsh, hazardous,
7 or intrusive than necessary; or involves no restrictions on physical movements nor
8 requirements for residential care except as reasonably necessary for the protection
9 of the child from physical injury; or protection of the community, and is conducted
10 at the suitable available facility closest to the child's place of residence to allow for
11 appropriate family engagement;

12 ~~(43)~~~~[(39)]~~ "Motor vehicle offense" means any violation of the nonfelony provisions of
13 KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

14 ~~(44)~~~~[(40)]~~ "Near fatality" means an injury that, as certified by a physician, places a child
15 in serious or critical condition;

16 ~~(45)~~~~[(41)]~~ "Needs of the child" means necessary food, clothing, health, shelter, and
17 education;

18 ~~(46)~~~~[(42)]~~ "Nonoffender" means a child alleged to be dependent, neglected, or abused
19 and who has not been otherwise charged with a status or public offense;

20 ~~(47)~~~~[(43)]~~ "Nonsecure facility" means a facility which provides its residents access to
21 the surrounding community and which does not rely primarily on the use of
22 physically restricting construction and hardware to restrict freedom;

23 ~~(48)~~~~[(44)]~~ "Nonsecure setting" means a nonsecure facility or a residential home,
24 including a child's own home, where a child may be temporarily placed pending
25 further court action. Children before the court in a county that is served by a state
26 operated secure detention facility, who are in the detention custody of the
27 Department of Juvenile Justice, and who are placed in a nonsecure alternative by

1 the Department of Juvenile Justice, shall be supervised by the Department of
2 Juvenile Justice;

3 ~~(49)~~~~[(45)]~~ "Out-of-home placement" means a placement other than in the home of a
4 parent, relative, or guardian, in a boarding home, clinical treatment facility,
5 community-based facility, detention facility, emergency shelter, fictive kin home,
6 foster family home, hospital, nonsecure facility, physically secure facility,
7 residential treatment facility, or youth alternative center;

8 ~~(50)~~~~[(46)]~~ "Parent" means the biological or adoptive mother or father of a child;

9 ~~(51)~~~~[(47)]~~ "Person exercising custodial control or supervision" means a person or agency
10 that has assumed the role and responsibility of a parent or guardian for the child, but
11 that does not necessarily have legal custody of the child;

12 ~~(52)~~~~[(48)]~~ "Petition" means a verified statement, setting forth allegations in regard to the
13 child, which initiates formal court involvement in the child's case;

14 ~~(53)~~~~[(49)]~~ "Physical injury" means substantial physical pain or any impairment of
15 physical condition;

16 ~~(54)~~~~[(50)]~~ "Physically secure facility" means a facility that relies primarily on the use of
17 construction and hardware such as locks, bars, and fences to restrict freedom;

18 ~~(55)~~~~[(51)]~~ "Public offense action" means an action, excluding contempt, brought in the
19 interest of a child who is accused of committing an offense under KRS Chapter 527
20 or a public offense which, if committed by an adult, would be a crime, whether the
21 same is a felony, misdemeanor, or violation, other than an action alleging that a
22 child sixteen (16) years of age or older has committed a motor vehicle offense;

23 ~~(56)~~~~[(52)]~~ "Qualified mental health professional" means:

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

27 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or

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

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

1 of mental health services or a regional community program for
2 mental health and individuals with an intellectual disability for at
3 least two (2) years; or

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

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

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

15 (57)~~[(53)]~~ "Reasonable and prudent parent standard" has the same meaning as in 42
16 U.S.C. sec. 675(10);

17 (58)~~[(54)]~~ "Residential treatment facility" means a facility or group home with more
18 than eight (8) beds designated by the Department of Juvenile Justice or the cabinet
19 for the treatment of children;

20 (59)~~[(55)]~~ "Retain in custody" means, after a child has been taken into custody, the
21 continued holding of the child by a peace officer for a period of time not to exceed
22 twelve (12) hours when authorized by the court or the court-designated worker for
23 the purpose of making preliminary inquiries;

24 (60)~~[(56)]~~ "Risk and needs assessment" means an actuarial tool scientifically proven to
25 identify specific factors and needs that are related to delinquent and noncriminal
26 misconduct;

27 (61)~~[(57)]~~ "School personnel" means those certified persons under the supervision of the

1 local public or private education agency;

2 (62)~~[(58)]~~ "Secretary" means the secretary of the Cabinet for Health and Family
3 Services;

4 (63)~~[(59)]~~ "Secure juvenile detention facility" means any physically secure facility used
5 for the secure detention of children other than any facility in which adult prisoners
6 are confined;

7 (64)~~[(60)]~~ "Serious physical injury" means physical injury which creates a substantial
8 risk of death or which causes serious and prolonged disfigurement, prolonged
9 impairment of health, or prolonged loss or impairment of the function of any bodily
10 member or organ;

11 (65)~~[(61)]~~ "Sexual abuse" includes but is not necessarily limited to any contacts or
12 interactions in which the parent, guardian, person in a position of authority or
13 special trust, as defined in KRS 532.045, or other person having custodial control or
14 supervision of the child or responsibility for his or her welfare, uses or allows,
15 permits, or encourages the use of the child for the purposes of the sexual
16 stimulation of the perpetrator or another person;

17 (66)~~[(62)]~~ "Sexual exploitation" includes but is not limited to a situation in which a
18 parent, guardian, person in a position of authority or special trust, as defined in
19 KRS 532.045, or other person having custodial control or supervision of a child or
20 responsible for his or her welfare, allows, permits, or encourages the child to
21 engage in an act which constitutes prostitution under Kentucky law; or a parent,
22 guardian, person in a position of authority or special trust, as defined in KRS
23 532.045, or other person having custodial control or supervision of a child or
24 responsible for his or her welfare, allows, permits, or encourages the child to
25 engage in an act of obscene or pornographic photographing, filming, or depicting of
26 a child as provided for under Kentucky law;

27 (67)~~[(63)]~~ "Social service worker" means any employee of the cabinet or any private

1 agency designated as such by the secretary of the cabinet or a social worker
2 employed by a county or city who has been approved by the cabinet to provide,
3 under its supervision, services to families and children;

4 ~~(68)~~~~[(64)]~~ "Staff secure facility for residential treatment" means any setting which
5 assures that all entrances and exits are under the exclusive control of the facility
6 staff, and in which a child may reside for the purpose of receiving treatment;

7 ~~(69)~~~~[(65)]~~ (a) "Status offense action" is any action brought in the interest of a child
8 who is accused of committing acts, which if committed by an adult, would not
9 be a crime. Such behavior shall not be considered criminal or delinquent and
10 such children shall be termed status offenders. Status offenses shall include:

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

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

17 ~~(70)~~~~[(66)]~~ "Take into custody" means the procedure by which a peace officer or other
18 authorized person initially assumes custody of a child. A child may be taken into
19 custody for a period of time not to exceed two (2) hours;

20 ~~(71)~~~~[(67)]~~ "Transitional living support" means all benefits to which an eligible youth is
21 entitled upon being granted extended or reinstated commitment to the cabinet by the
22 court;

23 ~~(72)~~~~[(68)]~~ "Transition plan" means a plan that is personalized at the direction of the
24 youth that:

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

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

2 ~~(73)~~~~((69))~~ "Valid court order" means a court order issued by a judge to a child alleged or
3 found to be a status offender:

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

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

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

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

13 ~~(74)~~~~((70))~~ "Violation" means any offense, other than a traffic infraction, for which a
14 sentence of a fine only can be imposed;

15 ~~(75)~~~~((71))~~ "Youth alternative center" means a nonsecure facility, approved by the
16 Department of Juvenile Justice, for the detention of juveniles, both prior to
17 adjudication and after adjudication, which meets the criteria specified in KRS
18 15A.320; and

19 ~~(76)~~~~((72))~~ "Youthful offender" means any person regardless of age, transferred to Circuit
20 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently
21 convicted in Circuit Court.

22 ➔Section 5. KRS 610.125 is amended to read as follows:

23 (1) If a child has been removed from the home and placed in the custody of the
24 Department of Juvenile Justice or the cabinet, a judge of the District Court shall
25 conduct a permanency hearing no later than twelve (12) months after the date the
26 child is considered to have entered foster care, and every twelve (12) months
27 thereafter if custody and out-of-home placement continues, to determine the future

1 status of the child. For purposes of this section, a child shall be considered to have
2 entered foster care on the earlier of the date of the first judicial finding that the child
3 has been subjected to child abuse or neglect or the date that is sixty (60) days after
4 the date on which the child is removed from the home.

5 The court shall address the following areas:

- 6 (a) If parental rights have not been terminated, whether the child should be
7 returned to the parent;
- 8 (b) Whether the child should be placed for adoption;
- 9 (c) Whether the child should be placed with a permanent custodian; and
- 10 (d) Whether the cabinet has documented a compelling reason that it is in the best
11 interest of the child who is age sixteen (16) or older to be placed in another
12 planned permanent living arrangement other than those listed in this
13 subsection. Prior to the approval of this permanency goal, the court shall:

- 14 1. Ask the child about the desired permanency outcome; and
- 15 2. Make a judicial determination explaining why, as of the date of the
16 hearing, another planned permanent living arrangement is the best
17 permanency goal for the child and provide compelling reasons why it
18 continues to not be in the best interest of the child to return home, be
19 placed for adoption, be placed with a legal guardian, or be placed with a
20 fit and willing relative or fictive kin.

- 21 (2) If the cabinet or the Department of Juvenile Justice determines that reasonable
22 efforts to reunify the child with the child's parent will not be made, the cabinet or
23 Department of Juvenile Justice shall file a case permanency plan as defined by KRS
24 620.230 or case progress report with the court that documents the reasons for not
25 making reasonable efforts. The court shall hold a permanency hearing within thirty
26 (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or
27 report with the Court.

- 1 (3) The Department of Juvenile Justice or the cabinet shall inform the court not less
2 than sixty (60) days prior to the expiration of the time in which the hearing shall be
3 held and within the time established in subsection (1) of this section, and shall
4 further inform the court of the name and address of the child's foster parents,
5 preadoptive parents, fictive kin, or relatives providing care to the child; court-
6 appointed special advocate; and foster care review board member assigned to the
7 case. For the hearing to be held pursuant to subsection (2) of this section, the names
8 and addresses of the persons identified in this subsection shall be provided in the
9 case permanency plan or case progress report to be filed with the court. The court
10 shall set a time for the hearing and notify the child's parent, foster parents,
11 preadoptive parents, fictive kin, or relatives providing care to the child and who
12 also shall have a right to be heard; court-appointed special advocate; foster care
13 review board member assigned to the case; attorney for the child; attorney for the
14 parent, if any; and the Department of Juvenile Justice or the cabinet.
- 15 (4) The Department of Juvenile Justice or the cabinet shall present evidence to the
16 court concerning the care and progress of the child since the last permanency
17 hearing, including the following:
- 18 (a) The length of time the child has been committed to the Department of
19 Juvenile Justice or the cabinet;
- 20 (b) The number, location, and date for each placement during the total period of
21 the child's commitment;
- 22 (c) A description of the reasonable efforts, as defined in Section 6 of this Act,
23 made by the cabinet as well as the services and assistance provided to the
24 parent or arranged by the Department of Juvenile Justice or the cabinet since
25 the last case permanency plan or case progress report, and the results
26 achieved;
- 27 (d) A description of the efforts and progress of the child's parent since the last

- 1 case permanency plan and case progress report, including the number and
2 dates of parental visits and the extent, quality, and frequency of the parent's
3 communication with the child;
- 4 (e) The familial and institutional barriers to:
- 5 1. Returning the child to the home;
- 6 2. Ending the commitment of the child to the Department of Juvenile
7 Justice or the cabinet; and
- 8 3. Delivery of appropriate services needed by the child;
- 9 (f) Recommendations of services needed to make the transition from out-of-
10 home care to independent living for children who have reached the age of
11 fourteen (14) years;
- 12 (g) An evaluation of the child's current placement and services provided to the
13 child;
- 14 (h) Recommendations for necessary services required to terminate the
15 commitment of the child to the cabinet, to return the child home, or to
16 facilitate another permanent placement;
- 17 (i) Recommendations as to the permanency goal for the child; and
- 18 (j) For a child with another planned permanency arrangement as the child's
19 permanency goal:
- 20 1. The intensive, ongoing efforts to return the child to the home or secure a
21 placement with a fit and willing relative, legal guardian, fictive kin, or
22 adoptive parent, including efforts that utilize search technology to find
23 the biological family;
- 24 2. The steps the agency is taking to ensure that the child's foster family
25 home or licensed child-caring facility is following the reasonable and
26 prudent parent standard in accordance with 42 U.S.C. sec. 671; and
- 27 3. The cabinet's efforts to ensure the child has regular, ongoing

1 opportunities to engage in age or developmentally appropriate activities,
2 including consulting with the child in an age and developmentally
3 appropriate manner about the opportunities of the child to participate in
4 the activities.

- 5 (5) (a) The child's parent, foster parent, preadoptive parent, fictive kin, or relative
6 providing care to the child shall have the right to be heard; and
7 (b) The attorney for the parent, attorney for the child, or court-appointed special
8 advocate, if deemed appropriate by the court, may present any evidence
9 relevant to the determination of a permanency goal for the child.
10 (6) Upon conclusion of the hearing the court shall make a written order determining the
11 permanency plan for the child.

- 12 (7) If necessary, the case may be redocketed for further review of the progress toward
13 the implementation of the permanency plan established at the permanency hearing.

14 ➔Section 6. KRS 620.020 is amended to read as follows:

15 The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this
16 chapter, unless the context requires otherwise:

- 17 (1) "Case permanency plan" means a document identifying decisions made by the
18 cabinet, for both the biological family and the child, concerning action which needs
19 to be taken to assure that the child in foster care expeditiously obtains a permanent
20 home;
21 (2) "Case progress report" means a written record of goals that have been achieved in
22 the case of a child;
23 (3) "Case record" means a cabinet file of specific documents and a running record of
24 activities pertaining to the child;
25 (4) "Children's advocacy center" means an agency that advocates on behalf of children
26 alleged to have been abused; that assists in the coordination of the investigation of
27 child abuse by providing a location for forensic interviews and medical

1 examinations, and by promoting the coordination of services for children alleged to
2 have been abused; and that provides, directly or by formalized agreements, services
3 that include, but are not limited to, forensic interviews, medical examinations,
4 mental health and related support services, court advocacy, consultation, training,
5 and staffing of multidisciplinary teams;

6 (5) "Foster care" means the provision of temporary twenty-four (24) hour care for a
7 child for a planned period of time when the child is:

8 (a) Removed from his or her parents or person exercising custodial control or
9 supervision and subsequently placed in the custody of the cabinet; and

10 (b) Placed in a foster home or private child-caring facility or child-placing agency
11 but remains under the supervision of the cabinet;

12 (6) "Local citizen foster care review board" means a citizen board which provides
13 periodic permanency reviews of children placed in the custody of the cabinet by a
14 court order of temporary custody or commitment under this chapter;

15 (7) "Multidisciplinary teams" means local teams operating under protocols governing
16 roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary
17 Commission on Child Sexual Abuse pursuant to KRS 431.600;

18 (8) "Pediatric abusive head trauma" means the various injuries or conditions that may
19 result following the vigorous shaking, slamming, or impacting the head of an infant
20 or young child. These injuries or conditions, also known as pediatric acquired
21 abusive head trauma, have in the past been called "Shaken Baby Syndrome" or
22 "Shaken Infant Syndrome." Pediatric abusive head trauma injuries or conditions
23 have included but are not limited to the following:

24 (a) Irreversible brain damage;

25 (b) Blindness;

26 (c) Retinal hemorrhage;

27 (d) Eye damage;

- 1 (e) Cerebral palsy;
- 2 (f) Hearing loss;
- 3 (g) Spinal cord injury;
- 4 (h) Paralysis;
- 5 (i) Seizures;
- 6 (j) Learning disability;
- 7 (k) Death;
- 8 (l) Central nervous system injury as evidenced by central nervous system
- 9 hemorrhaging;
- 10 (m) Closed head injury;
- 11 (n) Rib fracture; and
- 12 (o) Subdural hematoma;
- 13 (9) "Permanence" means a relationship between a child and an adult which is intended
- 14 to last a lifetime, providing commitment and continuity in the child's relationships
- 15 and a sense of belonging;
- 16 (10) "Position of authority" has the same meaning as in KRS 532.045;
- 17 (11) "Position of special trust" has the same meaning as in KRS 532.045;
- 18 (12) "Preventive services" means those services which are designed to help maintain and
- 19 strengthen the family unit by preventing or eliminating the need for removal of
- 20 children from the family;
- 21 (13) "Reasonable efforts" means the exercise of ordinary diligence and care by the
- 22 department to utilize all preventive and reunification services available to the
- 23 community in accordance with the state plan for Pub. L. No.~~[Public Law]~~ 96-272
- 24 which are necessary to enable the child to safely live at home. Reasonable efforts
- 25 for a disabled parent or legal guardian include:
- 26 (a) Individualized efforts based on a parent's or legal guardian's specific
- 27 disability;

1 **(b) Referrals for access to adaptive parenting equipment;**

2 **(c) Referrals for instruction on adaptive parenting techniques; and**

3 **(d) Reasonable accommodations with regard to accessing disability support**
4 **services;**

5 (14) "Reunification services" means remedial and preventive services which are
6 designed to strengthen the family unit, to secure reunification of the family and
7 child where appropriate, as quickly as practicable, and to prevent the future removal
8 of the child from the family; and

9 (15) "State citizen foster care review board" means a board created by KRS 620.310.

10 ➔Section 7. KRS 620.240 is amended to read as follows:

11 The cabinet shall file for each child a case progress report at least once every six (6)
12 months with the court and the Administrative Office of the Courts Citizen Foster Care
13 Review Board Program. The first case progress report after the child is placed in the
14 custody of the cabinet by an order of temporary custody or commitment shall be mailed
15 to the Administrative Office of the Courts Citizen Foster Care Review Board Program
16 and subsequent case progress reports shall be provided to the local citizen foster care
17 review board within the case file. The case progress report shall include but is not limited
18 to:

19 (1) The length of time the child has been in the custody of the cabinet;

20 (2) The number, location, and date for each placement during the time the child has
21 been in the custody of the cabinet;

22 (3) A description of the **reasonable efforts made by the cabinet as well as** services and
23 assistance provided or arranged by the cabinet to the parents since the last case
24 permanency plan or case progress report, and results achieved;

25 (4) A description of the efforts and progress of the parents since the last case
26 permanency plan and case progress report, including the number and dates of
27 parental visits and the extent, quality, and frequency of the parents' communication

1 with the child;

2 (5) The barriers, familial and institutional, to returning the child home or releasing the
3 child from the custody of the cabinet and services that are not currently available in
4 the community;

5 (6) An evaluation of the child's current placement and services provided to the child;

6 (7) Recommendations for necessary services required to release the child from the
7 custody of the cabinet, to return the child home, or to facilitate another permanent
8 placement;

9 (8) A timetable for the child's return home or other permanent placement; and

10 (9) If return home is not recommended, a specific recommendation for a permanent
11 placement, including termination of parental rights if appropriate. If continued
12 foster care is recommended, an explanation as to why another permanent placement
13 is not appropriate.

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

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

18 (a) 1. The child has been adjudged to be an abused or neglected child, as
19 defined in KRS 600.020(1), by a court of competent jurisdiction;

20 2. The child is found to be an abused or neglected child, as defined in KRS
21 600.020(1), by the Circuit Court in this proceeding;

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

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

27 b. Is currently, or within ninety (90) days after the birth, enrolled in

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

1 (90) days;

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

4 (c) That the parent has continuously or repeatedly inflicted or allowed to be
5 inflicted upon the child, by other than accidental means, physical injury or
6 emotional harm;

7 (d) That the parent has been convicted of a felony that involved the infliction of
8 serious physical injury to any child;

9 (e) That the parent, for a period of not less than six (6) months, has continuously
10 or repeatedly failed or refused to provide or has been substantially incapable
11 of providing essential parental care and protection for the child and that there
12 is no reasonable expectation of improvement in parental care and protection,
13 considering the age of the child;

14 (f) That the parent has caused or allowed the child to be sexually abused or
15 exploited;

16 (g) That the parent, for reasons other than poverty or disability alone, has
17 continuously or repeatedly failed to provide or is incapable of providing
18 essential food, clothing, shelter, medical care, or education reasonably
19 necessary and available for the child's well-being and that there is no
20 reasonable expectation of significant improvement in the parent's conduct in
21 the immediately foreseeable future, considering the age of the child;

22 (h) That:

23 1. The parent's parental rights to another child have been involuntarily
24 terminated;

25 2. The child named in the present termination action was born subsequent
26 to or during the pendency of the previous termination; and

27 3. The conditions or factors which were the basis for the previous

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

1 child;

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

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

6 (4) If the child has been placed with the cabinet, the parent may present testimony
7 concerning the reunification services offered by the cabinet and whether additional
8 services would be likely to bring about lasting parental adjustment enabling a return
9 of the child to the parent.

10 (5) If the parent proves by a preponderance of the evidence that the child will not
11 continue to be an abused or neglected child as defined in KRS 600.020(1) if
12 returned to the parent the court in its discretion may determine not to terminate
13 parental rights.

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

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

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