

1 AN ACT relating to children and declaring an emergency.

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

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

5 (1) As used in this section:

6 (a) "Child" means any person who has not reached the age of eighteen (18)
7 years that has not been emancipated under law; and

8 (b) "Parent" means a biological parent of a child, an adoptive parent of a
9 child, or an individual who has been granted legal authority over the
10 welfare of a child under this state's laws, but shall not include any
11 governmental entity, organization, or any person whose authority over the
12 child has been terminated by court order.

13 (2) The liberty of a parent to direct the upbringing, education, healthcare, and
14 mental healthcare of that parent's child is a fundamental right.

15 (3) The state, any political subdivision of the state, or any other governmental entity
16 shall not substantially burden the fundamental right of a parent to direct the
17 upbringing, education, healthcare, and mental healthcare of that parent's child
18 without demonstrating that the substantial burden is required by a compelling
19 governmental interest of the highest order as applied to the parent and the child
20 and is the least restrictive means of furthering that compelling interest.

21 (4) All parental rights are exclusively reserved to a parent of a child without
22 obstruction by or interference from the state, any political subdivision of the state,
23 or any other governmental entity, including, without limitation, the following
24 rights and responsibilities:

25 (a) To direct the upbringing of the child;

26 (b) To direct the moral and religious upbringing of the child;

27 (c) To direct the education of the child, including but not limited to the right to

1 choose public, private, religious, or home schools, and the following rights
2 as applied toward the public schools of the state:

3 1. To make reasonable choices for the child's education as may be
4 permitted and set forth in other statutes within public schools; and

5 2. To access and review all school records relating to the child as set
6 forth in the Kentucky Family Education Rights and Privacy Act, KRS
7 160.700 to 160.730, unless prohibited by court order;

8 (d) To consent in writing to all physical and mental healthcare decisions for the
9 child through specific or general authorizations;

10 (e) To access and view all medical records of the child;

11 (f) To consent in writing before biometric data of the child is collected, shared,
12 or stored, except for general identification cards or documents;

13 (g) To consent in writing before any record of the child's blood or
14 deoxyribonucleic acid is created, stored, or shared, unless authorized
15 pursuant to a court order or collected as evidence to identify a person;

16 (h) To consent in writing before any government entity makes a video or voice
17 recording of the child, unless the video or voice recording is made during or
18 as a part of:

19 1. A public event;

20 2. A court proceeding;

21 3. A forensic interview in a criminal or Cabinet for Health and Family
22 Services investigation;

23 4. The security or surveillance of buildings, grounds, or other property;
24 or

25 5. A photo identification card; and

26 (i) To be notified promptly if an employee of this state, any political subdivision
27 of this state, any other governmental entity, or any other institution suspects

1 that abuse, neglect, or any criminal offense, excluding de minimis offenses,
2 has been committed against the child by someone other than a parent,
3 including the right to be notified if the child has been a victim of a felony as
4 set forth in KRS 158.156, unless the incident has first been reported to law
5 enforcement and notification of the parent would impede a law enforcement
6 or Cabinet for Health and Family Services investigation.

7 (5) Nothing in this section shall authorize or allow a parent to abuse or neglect a
8 child as defined in KRS Chapter 508 or 600.020. This section does not apply to a
9 parental action or decision that would end the life of the child or to KRS Chapter
10 402 relating to child marriage. This section shall not prohibit a court from
11 issuing an order that is otherwise permitted by law.

12 (6) No employee of this state, any political subdivision of this state, any other
13 governmental entity, or any public or private educational institution, except for
14 law enforcement personnel who are acting in an official capacity, shall
15 encourage or coerce a child to withhold information that is vital to a parent's
16 ability to exercise parental rights from the child's parents, nor shall any such
17 employee withhold from the parent information vital to maintaining the physical,
18 emotional, or mental health of the child. This shall include information necessary
19 for the parent to engage at the earliest stages of problem behavior.

20 (7) Unless those rights have been legally waived or legally terminated, parents have
21 inalienable rights that are more comprehensive than those listed in Sections 1 to
22 4 of this Act. The protections of the fundamental right of parents to direct the
23 upbringing, education, healthcare, and mental healthcare of their child afforded
24 by Sections 1 to 4 of this Act are in addition to the protections provided under
25 federal law, state law, and the state and federal constitutions.

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

1 (1) The board of education of a school district, or the board of directors of a public
2 charter school, in consultation with parents, teachers, administrators, and the
3 Kentucky Department of Education, shall develop and adopt policies to promote
4 the involvement of parents of children enrolled in the schools within the school
5 district, including:

6 (a) A plan for parent participation in the schools which is designed to improve
7 parent and teacher cooperation in such areas as homework, attendance,
8 and discipline;

9 (b) Procedures by which a parent may learn about the courses of study for that
10 parent's child and review all available educational and learning materials
11 utilized, including any supplemental educational materials and any teacher
12 training materials or videos;

13 (c) A policy to respect parental rights by ensuring children in grade five (5) and
14 below do not receive any instruction through curriculum or programs on
15 human sexuality or sexually transmitted diseases or that any child,
16 regardless of grade level, enrolled in the district does not receive any
17 instruction or presentation that has a goal or purpose of studying,
18 exploring, or informing students about gender identity, gender expression,
19 sexual orientation, or sexual relationships;

20 (d) A policy to notify a parent in advance and obtain the parent's written
21 consent before the parent's child in grade six (6) or above receives any
22 instruction through curriculum or programs on human sexuality or
23 sexually transmitted diseases as described in KRS 158.1415;

24 (e) Procedures by which a parent who objects to any specific instruction or
25 presentation may withdraw that parent's child from the instruction or
26 presentation. Objection to a specific instruction or presentation shall be on
27 the basis that it conflicts with the beliefs or practices of a parent regarding

1 morality or religion;

2 (f) Procedures to allow a parent to learn about the nature and purpose of clubs
3 and extracurricular activities that have been approved by the school or
4 district;

5 (g) Procedures to give prior notification to parents of the identity of non-
6 employee speakers, instructors, or demonstrators and the purpose of the
7 non-employee's participation in the child's class or program;

8 (h) Procedures to inform the parent if the parent's child wishes to use a name
9 or nickname other than their legal name or that the child wishes to use a
10 pronoun that does not align with the child's biological sex. A policy shall
11 require written consent from the parent before using a name or nickname
12 other than the child's legal name or pronoun that does not align with the
13 child's biological sex. The written consent may include general
14 authorization to use any names, nicknames, or pronouns the child requests.
15 However, even if a parent provides written consent, no person shall be
16 compelled to use pronouns that do not align with the child's biological sex;

17 (i) Procedures to notify parents of each school's policies and practices
18 regarding student access to and use of locker rooms, changing rooms,
19 restrooms, and overnight lodging on school-sponsored trips. This notice
20 shall be provided at the start of each school year and anytime a school's
21 policy or practice changes; and

22 (j) Procedures to inform parents about the parental rights and responsibilities
23 outlined in Sections 1 to 4 of this Act, the policies required under this
24 section, and the Kentucky Family Education and Privacy Rights Act, KRS
25 160.700 to 160.730. This may be provided in an electronic form.

26 (2) The Kentucky Department of Education may develop model policies and
27 procedures and consult with local boards of education and boards of directors of

1 a public charter schools to assist compliance with Sections 1 to 4 and 5 of this
2 Act. However, no district or public charter school shall be required to adopt those
3 policies, procedures, or advice. By July 1 of each year, the Kentucky Department
4 of Education shall submit a report to the Interim Joint Committee on Education
5 summarizing the consultation provided and detailing the model policies and
6 procedures provided during the past year.

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

9 (1) Except as otherwise provided by subsection (3) of this section and Section 6 of
10 this Act, by court order, or except for de minimis care, a person, corporation,
11 association, organization, state-supported institution, or individual employed by
12 any of these entities, shall obtain the consent of a parent of a child before taking
13 any of the following actions:

14 (a) Procuring, soliciting to perform, arranging for the performance of,
15 providing a referral for, or performing surgical procedures upon a child;

16 (b) Procuring, soliciting to perform, arranging for the performance of,
17 providing a referral for, or performing a physical examination upon a
18 child;

19 (c) Procuring, soliciting to perform, arranging for the performance of,
20 providing a referral for, or performing a mental health evaluation in a
21 clinical or nonclinical setting or mental health treatment on a child; or

22 (d) Prescribing or dispensing any medication or prescription drugs to a child.

23 (2) If parental consent required under subsection (1) of this section is given remotely,
24 the person or entity obtaining parental consent shall verify the identity of the
25 parent.

26 (3) The provisions of this section shall not apply when:

27 (a) It has been determined in good faith by a physician or mental health

1 professional that an emergency exists and either of the following conditions
2 is true:

3 1. It is necessary to perform an activity listed in subsection (1) of this
4 section in order to prevent death or imminent irreparable physical
5 injury to the child; or

6 2. A parent of the child cannot be located or contacted after a reasonably
7 diligent effort; or

8 (b) A physician or mental health professional, in good faith and with a
9 reasonable belief supported by fact, determines that the minor is a victim of
10 physical, sexual, or substance abuse by the parent, and that obtaining
11 parental consent would place the minor at risk of further abuse from a
12 parent.

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

15 (1) A parent may bring suit for any violation of Sections 1 to 4 of this Act and may
16 raise these sections as a defense in any judicial or administrative proceeding
17 without regard to whether the proceeding is brought by or in the name of the
18 state, any political subdivision of the state, any other governmental entity, any
19 private person, or any other party.

20 (2) Notwithstanding any other provision of law, an action under this section may be
21 commenced, and relief may be granted, without regard to whether the person
22 commencing the action has sought or exhausted available administrative
23 remedies.

24 (3) Any person who successfully asserts a claim or defense under this section may
25 recover declaratory relief, injunctive relief, compensatory damages, punitive
26 damages, reasonable attorney's fees and costs, and any other appropriate relief.

27 (4) Sovereign, governmental, and qualified immunities to suit and from liability are

1 waived and abolished to the extent necessary to allow for equitable relief under
2 this section.

3 (5) Sections 1 to 4 of this Act shall be construed in favor of a broad protection of the
4 fundamental right of parents to direct the upbringing, education, healthcare, and
5 mental healthcare of their child.

6 (6) Nothing in Sections 1 to 4 of this Act shall be construed to authorize any
7 government to burden the fundamental right of parents to direct the upbringing,
8 education, healthcare, and mental healthcare of their child.

9 (7) If a child has no affirmative right to access a particular medical or mental health
10 procedure or service, then nothing in Sections 1 to 4 or 5 of this Act shall be
11 construed to grant that child's parent an affirmative right of access to that
12 procedure or service on that child's behalf.

13 (8) State statutory law adopted after the date of the enactment of this section shall be
14 subject to Sections 1 to 4 of this Act unless that law explicitly excludes that
15 application by reference to this section.

16 (9) No parent prohibited by court order signed by a judge or justice of a court of
17 competent jurisdiction within the Commonwealth of Kentucky shall have a cause
18 of action under this section.

19 ➔Section 5. KRS 160.715 is amended to read as follows:

20 (1) Parents of students or eligible students attending public institutions or who have
21 been in attendance shall have the right to inspect and review student education
22 records within a reasonable time of making a request to inspect.

23 (2) For school districts or public charter schools:

24 (a) The local board of education or board of directors shall adopt policies for
25 honoring requests for inspection and review of all education records that
26 include identifying and authorizing at least one (1) official to be a
27 designated recipient for requests;

1 (b) A parent shall submit a written or electronic request to inspect or review
2 records to the designated official, and within five (5) business days of
3 receiving the request, the official shall:

- 4 1. Deliver the requested information to the parent;
5 2. Provide the parent with the opportunity to inspect the record;
6 3. Provide a detailed explanation of the cause for further delay and the
7 place, time, and earliest date on which the record will be available; or
8 4. Submit to the parent a written explanation of the reasons for the
9 denial of the request; and

10 (c) If the request is denied or the parent does not receive the requested record
11 or the ability to inspect the record within fifteen (15) business days after
12 submitting the request, the parent may submit a written request to inspect or
13 review the record to the local board or board of directors which shall
14 formally consider the request at the next scheduled public meeting of the
15 board in which the request can be properly placed on the agenda.

16 (3) All other educational institutions shall establish procedures for honoring requests
17 for inspection within a reasonable time.

18 (4) Reasonable fees for copying materials and documents may be charged.

19 ➔Section 6. KRS 214.185 is amended to read as follows:

20 (1) ~~[Any physician, upon consultation by a minor as a patient, with the consent of such~~
21 ~~minor may make a diagnostic examination for venereal disease, pregnancy, or~~
22 ~~substance use disorder and may advise, prescribe for, and treat such minor~~
23 ~~regarding venereal disease, substance use disorder, contraception, pregnancy, or~~
24 ~~childbirth, all without the consent of or notification to the parent, parents, or~~
25 ~~guardian of such minor patient, or to any other person having custody of such minor~~
26 ~~patient. Treatment under this section does not include]~~Except as provided in this
27 section, no medical or mental health services shall be given to a minor of any age

1 without the consent of the parent or legal guardian, including inducing of an
2 abortion, prescribing any medication or performing any surgical procedure
3 related to gender transition, or performance of a sterilization operation.~~[In any~~
4 ~~such case, the physician shall incur no civil or criminal liability by reason of having~~
5 ~~made such diagnostic examination or rendered such treatment, but such immunity~~
6 ~~shall not apply to any negligent acts or omissions.]~~

7 ~~(2)[Any physician may provide outpatient mental health counseling to any child age~~
8 ~~sixteen (16) or older upon request of such child without the consent of a parent,~~
9 ~~parents, or guardian of such child.~~

10 ~~(3)]~~ Any qualified mental health professional, as defined by KRS 202A.011, may
11 provide outpatient mental health counseling to any child who is age sixteen (16) or
12 older and is an unaccompanied youth, as defined by 42 U.S.C. sec. 11434a(6), upon
13 request of such child without the consent of a parent, parents, or guardian of such
14 child and after a reasonable attempt to verify the minor's age and status as an
15 unaccompanied youth.

16 ~~(3)[(4)]~~ Notwithstanding any other provision of the law, and without limiting cases in
17 which consent may be otherwise obtained or is not required, any emancipated
18 minor or any minor who has contracted a lawful marriage or borne a child may give
19 consent to the furnishing of hospital, medical, dental, or surgical care to his or her
20 child or himself or herself and such consent shall not be subject to disaffirmance
21 because of minority. The consent of the parent or parents of such married or
22 emancipated minor shall not be necessary in order to authorize such care. For the
23 purpose of this section only, a subsequent judgment of annulment of marriage or
24 judgment of divorce shall not deprive the minor of his or her adult status once
25 obtained. The provider of care may look only to the minor or spouse for payment
26 for services under this section unless other persons specifically agree to assume the
27 cost.

1 ~~(4)~~(5) Medical, dental, and other health services may be rendered to minors of any
2 age without the consent of a parent or legal guardian when, in the professional's
3 judgment:

4 **(a) An emergency exists and either of the following conditions is true:**

5 **1. It is necessary to perform the health service in order to prevent death**
6 **or imminent, irreparable physical injury to the child; or**

7 **2. A parent or legal guardian of the child cannot be located or contacted**
8 **after a reasonably diligent effort; or**

9 **(b) Based in good faith with a reasonable belief supported by fact that the**
10 **minor is a victim of physical, sexual, or substance abuse by a parent or**
11 **guardian and that obtaining a parent's or guardian's consent would place**
12 **the minor at risk of further abuse from a parent or guardian**~~], the risk to the~~

13 ~~minor's life or health is of such a nature that treatment should be given~~
14 ~~without delay and the requirement of consent would result in delay or denial~~
15 ~~of treatment.~~

16 ~~(6) The consent of a minor who represents that he or she may give effective consent for~~
17 ~~the purpose of receiving medical, dental, or other health services but who may not~~
18 ~~in fact do so, shall be deemed effective without the consent of the minor's parent or~~
19 ~~legal guardian, if the person rendering the service relied in good faith upon the~~
20 ~~representations of the minor].~~

21 ~~(5)~~(7) The consent of a minor **age sixteen (16) or older** who represents that he or she
22 may give effective consent for the purpose of receiving outpatient mental health
23 counseling from a qualified mental health professional, but who may not in fact do
24 so, shall be deemed effective without the consent of the minor's parent or legal
25 guardian if the person rendering the service relied in good faith upon the
26 representations of the minor after a reasonable attempt to obtain parental consent or
27 to verify the minor's age and status as an unaccompanied youth.

1 ~~(6)~~~~(8)~~ The professional may inform the parent or legal guardian of the minor patient
2 of any treatment given or needed where, in the judgment of the professional,
3 informing the parent or guardian would benefit the health of the minor patient.

4 ~~(7)~~~~(9)~~ Except as otherwise provided in this section, parents, the Cabinet for Health
5 and Family Services, or any other custodian or guardian of a minor shall not be
6 financially responsible for services rendered under this section unless they are
7 essential for the preservation of the health of the minor.

8 ➔Section 7. Due to the high importance of parents' ability to exercise the rights
9 outlined in this Act to provide the upbringing of their children in the Commonwealth, an
10 emergency is declared to exist, and this Act shall take effect upon its passage and
11 approval by the Governor or upon its otherwise becoming law.