

1 AN ACT relating to fictive kin.

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

3 ➔SECTION 1. KRS 199.011 IS REPEALED AND REENACTED TO READ AS
4 FOLLOWS:

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

6 *(1) "Adoption worker" means an employee of the cabinet so designated by the*
7 *secretary for health and family services, a social worker employed by a county or*
8 *city who has been approved by the cabinet to handle, under its supervision,*
9 *adoption placement services to children, or a social worker employed by or under*
10 *contract to a child-placing adoption agency;*

11 *(2) "Adult adopted person" means any adopted person who is twenty-one (21) years*
12 *of age or older;*

13 *(3) "Cabinet" means the Cabinet for Health and Family Services;*

14 *(4) "Child" means any person who has not reached his eighteenth birthday;*

15 *(5) "Child-caring facility" means any institution or group home, including*
16 *institutions and group homes that are publicly operated, providing residential*
17 *care on a twenty-four (24) hour basis to children, not related by blood, adoption,*
18 *or marriage to the person maintaining the facility, other than an institution or*
19 *group home certified by an appropriate agency as operated primarily for*
20 *educational or medical purposes, or a residential program operated or contracted*
21 *by the Department of Juvenile Justice that maintains accreditation, or obtains*
22 *accreditation within two (2) years of opening from a nationally recognized*
23 *accrediting organization;*

24 *(6) "Child-placing agency" means any agency licensed by the cabinet which*
25 *supervises the placement of children in foster family homes or child-caring*
26 *facilities, or which places children for adoption;*

27 *(7) "Department" means the Department for Community Based Services;*

- 1 (8) "Family rehabilitation home" means a child-caring facility for appropriate
2 families and comprising not more than twelve (12) children and two (2) staff
3 persons;
- 4 (9) "Fictive kin" means an individual who is not related by birth, adoption, or
5 marriage to a child, but who has an emotionally significant relationship with the
6 child;
- 7 (10) "Foster family home" means a private home in which children are placed for
8 foster family care under supervision of the cabinet or of a licensed child-placing
9 agency;
- 10 (11) "Group home" means a homelike facility, excluding Department of Juvenile
11 Justice operated or contracted facilities, for not more than eight (8) foster
12 children, not adjacent to or part of an institutional campus, operated by a
13 sponsoring agency for children who may participate in community activities and
14 use community resources;
- 15 (12) "Institution" means a child-caring facility providing care or maintenance for
16 nine (9) or more children;
- 17 (13) "Placement services" means those social services customarily provided by a
18 licensed child-placing or a public agency which are necessary for the
19 arrangement and placement of children in foster family homes, child-placing
20 facilities, or adoptive homes. Placement services are provided through a licensed
21 child-placing or a public agency for children who cannot be cared for by their
22 biological parents and who need and can benefit from new and permanent family
23 ties established through legal adoption. Licensed child-placing agencies and
24 public agencies have a responsibility to act in the best interests of children,
25 biological parents, and adoptive parents by providing social services to all the
26 parties involved in an adoption;
- 27 (14) "Reasonable and prudent parent standard" has the same meaning as in 42

1 U.S.C. sec. 675(10);

2 (15) "Secretary" means the secretary for health and family services; and

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

13 (a) Date, time, and place of the execution of the consent;

14 (b) Name of the child, if any, to be adopted and the date and place of the child's
15 birth;

16 (c) Consenting person's relationship to the child;

17 (d) Identity of the proposed adoptive parents or a statement that the consenting
18 person does not desire to know the identification of the proposed adoptive
19 parents;

20 (e) A statement that the consenting person understands that the consent will be
21 final and irrevocable under this paragraph unless withdrawn under this
22 paragraph.

23 1. If placement approval by the secretary is required, the voluntary and
24 informed consent shall become final and irrevocable twenty (20) days
25 after the later of the placement approval or the execution of the
26 voluntary and informed consent. This consent may be withdrawn only
27 by written notification sent to the proposed adoptive parent or the

1 attorney for the proposed adoptive parent on or before the twentieth
 2 day by certified or registered mail and also by first-class mail.

3 2. If placement approval by the secretary is not required, the voluntary
 4 and informed consent shall become final and irrevocable twenty (20)
 5 days after the execution of the voluntary and informed consent. This
 6 consent may be withdrawn only by written notification sent to the
 7 proposed adoptive parent or the attorney for the proposed adoptive
 8 parent on or before the twentieth day by certified or registered mail
 9 and also by first-class mail;

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

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

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

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

21 ➔Section 2. KRS 199.462 is amended to read as follows:

22 (1) Before an applicant is approved to provide foster care or relative caregiver services
 23 to a child, be considered a fictive kin placement for a child, or approved to receive
 24 a child for adoption, the Cabinet for Health and Family Services shall:

25 (a) Require a criminal background investigation of the applicant and any of the
 26 applicant's adult household members by means of a fingerprint check by the
 27 Department of Kentucky State Police and the Federal Bureau of Investigation;

1 or

2 (b) Request from the Justice and Public Safety Cabinet records of all conviction
3 information for the applicant and any of the applicant's adult household
4 members. The Justice and Public Safety Cabinet shall furnish the information
5 to the Cabinet for Health and Family Services and shall also send a copy of
6 the information to the applicant.

7 (2) The request for records shall be on a form approved by the Justice and Public Safety
8 Cabinet, and the Justice and Public Safety Cabinet may charge a fee to be paid by
9 the applicant for the actual cost of processing the request.

10 (3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for
11 Health and Family Services may require a background investigation for each adult
12 household member of the certified adoptive or foster home under subsections (1)
13 and (2) of this section.

14 (4) *If a child is placed and resides in a fictive kin home for more than seventy-two*
15 *(72) hours, the Cabinet for Health and Family Services shall take action,*
16 *including but not limited to the following:*

17 *(a) Provide information on how to recognize and report child abuse or neglect;*

18 *and*

19 *(b) Ensure that, within the first five (5) days of a child under the age of five (5)*
20 *years old being placed in a fictive kin home, the fictive kin has completed a*
21 *one (1) time training course of one and one-half (1.5) hours of training*
22 *covering the prevention and recognition of pediatric abusive head trauma,*
23 *as defined in KRS 620.020.*

24 (5) The Cabinet for Health and Family Services shall promulgate an administrative
25 regulation to implement this section.

26 ➔Section 3. 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, as
4 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 alcohol and other drug abuse 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. A parent or other person exercising custodial control or
24 supervision of the child legitimately practicing the person's religious
25 beliefs shall not be considered a negligent parent solely because of
26 failure to provide specified medical treatment for a child for that reason
27 alone. This exception shall not preclude a court from ordering necessary

- 1 medical services for a child;
- 2 9. Fails to make sufficient progress toward identified goals as set forth in
- 3 the court-approved case plan to allow for the safe return of the child to
- 4 the parent that results in the child remaining committed to the cabinet
- 5 and remaining in foster care for fifteen (15) of the most recent twenty-
- 6 two (22) months; or
- 7 (b) A person twenty-one (21) years of age or older commits or allows to be
- 8 committed an act of sexual abuse, sexual exploitation, or prostitution upon a
- 9 child less than sixteen (16) years of age;
- 10 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
- 11 675(11);
- 12 (3) "Aggravated circumstances" means the existence of one (1) or more of the
- 13 following conditions:
- 14 (a) The parent has not attempted or has not had contact with the child for a period
- 15 of not less than ninety (90) days;
- 16 (b) The parent is incarcerated and will be unavailable to care for the child for a
- 17 period of at least one (1) year from the date of the child's entry into foster care
- 18 and there is no appropriate relative placement available during this period of
- 19 time;
- 20 (c) The parent has sexually abused the child and has refused available treatment;
- 21 (d) The parent has been found by the cabinet to have engaged in abuse of the
- 22 child that required removal from the parent's home two (2) or more times in
- 23 the past two (2) years; or
- 24 (e) The parent has caused the child serious physical injury;
- 25 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
- 26 the reasonable directives of his or her parents, legal guardian, or person exercising
- 27 custodial control or supervision other than a state agency, which behavior results in

- 1 danger to the child or others, and which behavior does not constitute behavior that
2 would warrant the filing of a petition under KRS Chapter 645;
- 3 (5) "Beyond the control of school" means any child who has been found by the court to
4 have repeatedly violated the lawful regulations for the government of the school as
5 provided in KRS 158.150, and as documented in writing by the school as a part of
6 the school's petition or as an attachment to the school's petition. The petition or
7 attachment shall describe the student's behavior and all intervention strategies
8 attempted by the school;
- 9 (6) "Boarding home" means a privately owned and operated home for the boarding and
10 lodging of individuals which is approved by the Department of Juvenile Justice or
11 the cabinet for the placement of children committed to the department or the
12 cabinet;
- 13 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 14 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,
15 and who have completed a course of education and training in juvenile detention
16 developed and approved by, the Department of Juvenile Justice after consultation
17 with other appropriate state agencies;
- 18 (9) "Child" means any person who has not reached his or her eighteenth birthday,
19 unless otherwise provided;
- 20 (10) "Child-caring facility" means any facility or group home other than a state facility,
21 Department of Juvenile Justice contract facility or group home, or one certified by
22 an appropriate agency as operated primarily for educational or medical purposes,
23 providing residential care on a twenty-four (24) hour basis to children not related by
24 blood, adoption, or marriage to the person maintaining the facility;
- 25 (11) "Child-placing agency" means any agency, other than a state agency, which
26 supervises the placement of children in foster family homes or child-caring facilities
27 or which places children for adoption;

- 1 (12) "Clinical treatment facility" means a facility with more than eight (8) beds
2 designated by the Department of Juvenile Justice or the cabinet for the treatment of
3 mentally ill children. The treatment program of such facilities shall be supervised by
4 a qualified mental health professional;
- 5 (13) "Commitment" means an order of the court which places a child under the custodial
6 control or supervision of the Cabinet for Health and Family Services, Department of
7 Juvenile Justice, or another facility or agency until the child attains the age of
8 eighteen (18) unless otherwise provided by law;
- 9 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
10 operated, or permitted to operate by the Department of Juvenile Justice or the
11 cabinet, which is located within a reasonable proximity of the child's family and
12 home community, which affords the child the opportunity, if a Kentucky resident, to
13 continue family and community contact;
- 14 (15) "Complaint" means a verified statement setting forth allegations in regard to the
15 child which contain sufficient facts for the formulation of a subsequent petition;
- 16 (16) "Court" means the juvenile session of District Court unless a statute specifies the
17 adult session of District Court or the Circuit Court;
- 18 (17) "Court-designated worker" means that organization or individual delegated by the
19 Administrative Office of the Courts for the purposes of placing children in
20 alternative placements prior to arraignment, conducting preliminary investigations,
21 and formulating, entering into, and supervising diversion agreements and
22 performing such other functions as authorized by law or court order;
- 23 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 24 (19) "Department" means the Department for Community Based Services;
- 25 (20) "Dependent child" means any child, other than an abused or neglected child, who is
26 under improper care, custody, control, or guardianship that is not due to an
27 intentional act of the parent, guardian, or person exercising custodial control or

- 1 supervision of the child;
- 2 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
3 conduct subject to the jurisdiction of the court who requires a restricted or closely
4 supervised environment for his or her own or the community's protection;
- 5 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
6 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
7 period of detention prior to adjudication;
- 8 (23) "Diversion agreement" means a mechanism designed to hold a child accountable for
9 his or her behavior and, if appropriate, securing services to serve the best interest of
10 the child and to provide redress for that behavior without court action and without
11 the creation of a formal court record;
- 12 (24) "Eligible youth" means a person who:
- 13 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 14 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 15 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
16 order to participate in state or federal educational programs or to establish
17 independent living arrangements;
- 18 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
19 homelike facility which provides temporary or emergency care of children and
20 adequate staff and services consistent with the needs of each child;
- 21 (26) "Emotional injury" means an injury to the mental or psychological capacity or
22 emotional stability of a child as evidenced by a substantial and observable
23 impairment in the child's ability to function within a normal range of performance
24 and behavior with due regard to his or her age, development, culture, and
25 environment as testified to by a qualified mental health professional;
- 26 (27) "Evidence-based practices" means policies, procedures, programs, and practices
27 proven by scientific research to reliably produce reductions in recidivism;

- 1 (28) "Fictive kin" means an individual who is not related by birth, adoption, or
2 marriage to a child, but who has an emotionally significant relationship with the
3 child;
- 4 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 5 (30)~~(29)~~ "Foster family home" means a private home in which children are placed for
6 foster family care under supervision of the cabinet or a licensed child-placing
7 agency;
- 8 (31)~~(30)~~ "Graduated sanction" means any of a continuum of accountability measures,
9 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
10 that may include but are not limited to:
- 11 (a) Electronic monitoring;
- 12 (b) Drug and alcohol screening, testing, or monitoring;
- 13 (c) Day or evening reporting centers;
- 14 (d) Reporting requirements;
- 15 (e) Community service; and
- 16 (f) Rehabilitative interventions such as family counseling, substance abuse
17 treatment, restorative justice programs, and behavioral or mental health
18 treatment;
- 19 (32)~~(31)~~ "Habitual runaway" means any child who has been found by the court to have
20 been absent from his or her place of lawful residence without the permission of his
21 or her custodian for at least three (3) days during a one (1) year period;
- 22 (33)~~(32)~~ "Habitual truant" means any child who has been found by the court to have
23 been reported as a truant as defined in KRS 159.150(1) two (2) or more times
24 during a one (1) year period;
- 25 (34)~~(33)~~ "Hospital" means, except for purposes of KRS Chapter 645, a licensed private
26 or public facility, health care facility, or part thereof, which is approved by the
27 cabinet to treat children;

1 ~~(35)~~~~(34)~~ "Independent living" means those activities necessary to assist a committed
2 child to establish independent living arrangements;

3 ~~(36)~~~~(35)~~ "Informal adjustment" means an agreement reached among the parties, with
4 consultation, but not the consent, of the victim of the crime or other persons
5 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
6 after a petition has been filed, which is approved by the court, that the best interest
7 of the child would be served without formal adjudication and disposition;

8 ~~(37)~~~~(36)~~ "Intentionally" means, with respect to a result or to conduct described by a
9 statute which defines an offense, that the actor's conscious objective is to cause that
10 result or to engage in that conduct;

11 ~~(38)~~~~(37)~~ "Least restrictive alternative" means, except for purposes of KRS Chapter
12 645, that the program developed on the child's behalf is no more harsh, hazardous,
13 or intrusive than necessary; or involves no restrictions on physical movements nor
14 requirements for residential care except as reasonably necessary for the protection
15 of the child from physical injury; or protection of the community, and is conducted
16 at the suitable available facility closest to the child's place of residence to allow for
17 appropriate family engagement;

18 ~~(39)~~~~(38)~~ "Motor vehicle offense" means any violation of the nonfelony provisions of
19 KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

20 ~~(40)~~~~(39)~~ "Near fatality" means an injury that, as certified by a physician, places a child
21 in serious or critical condition;

22 ~~(41)~~~~(40)~~ "Needs of the child" means necessary food, clothing, health, shelter, and
23 education;

24 ~~(42)~~~~(41)~~ "Nonoffender" means a child alleged to be dependent, neglected, or abused
25 and who has not been otherwise charged with a status or public offense;

26 ~~(43)~~~~(42)~~ "Nonsecure facility" means a facility which provides its residents access to the
27 surrounding community and which does not rely primarily on the use of physically

1 restricting construction and hardware to restrict freedom;

2 ~~(44)~~~~((43))~~ "Nonsecure setting" means a nonsecure facility or a residential home,
3 including a child's own home, where a child may be temporarily placed pending
4 further court action. Children before the court in a county that is served by a state
5 operated secure detention facility, who are in the detention custody of the
6 Department of Juvenile Justice, and who are placed in a nonsecure alternative by
7 the Department of Juvenile Justice, shall be supervised by the Department of
8 Juvenile Justice;

9 ~~(45)~~~~((44))~~ "Out-of-home placement" means a placement other than in the home of a
10 parent, relative, or guardian, in a boarding home, clinical treatment facility,
11 community-based facility, detention facility, emergency shelter, *fictive kin home*,
12 foster family home, hospital, nonsecure facility, physically secure facility,
13 residential treatment facility, or youth alternative center;

14 ~~(46)~~~~((45))~~ "Parent" means the biological or adoptive mother or father of a child;

15 ~~(47)~~~~((46))~~ "Person exercising custodial control or supervision" means a person or agency
16 that has assumed the role and responsibility of a parent or guardian for the child, but
17 that does not necessarily have legal custody of the child;

18 ~~(48)~~~~((47))~~ "Petition" means a verified statement, setting forth allegations in regard to the
19 child, which initiates formal court involvement in the child's case;

20 ~~(49)~~~~((48))~~ "Physical injury" means substantial physical pain or any impairment of
21 physical condition;

22 ~~(50)~~~~((49))~~ "Physically secure facility" means a facility that relies primarily on the use of
23 construction and hardware such as locks, bars, and fences to restrict freedom;

24 ~~(51)~~~~((50))~~ "Public offense action" means an action, excluding contempt, brought in the
25 interest of a child who is accused of committing an offense under KRS Chapter 527
26 or a public offense which, if committed by an adult, would be a crime, whether the
27 same is a felony, misdemeanor, or violation, other than an action alleging that a

1 child sixteen (16) years of age or older has committed a motor vehicle offense;

2 ~~(52)~~~~(51)~~ "Qualified mental health professional" means:

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

6 (b) A psychiatrist 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 practice of official duties, and who is certified or eligible to
9 apply for certification by the American Board of Psychiatry and Neurology,
10 Inc.;

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

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

23 (e) A licensed clinical social worker licensed under the provisions of KRS
24 335.100, or a certified social worker licensed under the provisions of KRS
25 335.080 with three (3) years of inpatient or outpatient clinical experience in
26 psychiatric social work and currently employed by a hospital or forensic
27 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a

1 general hospital or a regional comprehensive care center;

2 (f) A marriage and family therapist licensed under the provisions of KRS 335.300
3 to 335.399 with three (3) years of inpatient or outpatient clinical experience in
4 psychiatric mental health practice and currently employed by a hospital or
5 forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit
6 of a general hospital, or a regional comprehensive care center; or

7 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
8 335.599 with three (3) years of inpatient or outpatient clinical experience in
9 psychiatric mental health practice and currently employed by a hospital or
10 forensic facility licensed by the Commonwealth, a psychiatric unit of a general
11 hospital, or a regional comprehensive care center;

12 ~~(53)~~~~(52)~~ "Reasonable and prudent parent standard" has the same meaning as in 42
13 U.S.C. sec. 675(10);

14 ~~(54)~~~~(53)~~ "Residential treatment facility" means a facility or group home with more than
15 eight (8) beds designated by the Department of Juvenile Justice or the cabinet for
16 the treatment of children;

17 ~~(55)~~~~(54)~~ "Retain in custody" means, after a child has been taken into custody, the
18 continued holding of the child by a peace officer for a period of time not to exceed
19 twelve (12) hours when authorized by the court or the court-designated worker for
20 the purpose of making preliminary inquiries;

21 ~~(56)~~~~(55)~~ "Risk and needs assessment" means an actuarial tool scientifically proven to
22 identify specific factors and needs that are related to delinquent and noncriminal
23 misconduct;

24 ~~(57)~~~~(56)~~ "School personnel" means those certified persons under the supervision of the
25 local public or private education agency;

26 ~~(58)~~~~(57)~~ "Secretary" means the secretary of the Cabinet for Health and Family
27 Services;

1 ~~(59)~~~~(58)~~ "Secure juvenile detention facility" means any physically secure facility used
2 for the secure detention of children other than any facility in which adult prisoners
3 are confined;

4 ~~(60)~~~~(59)~~ "Serious physical injury" means physical injury which creates a substantial
5 risk of death or which causes serious and prolonged disfigurement, prolonged
6 impairment of health, or prolonged loss or impairment of the function of any bodily
7 member or organ;

8 ~~(61)~~~~(60)~~ "Sexual abuse" includes but is not necessarily limited to any contacts or
9 interactions in which the parent, guardian, person in a position of authority or
10 special trust, as defined in KRS 532.045, or other person having custodial control or
11 supervision of the child or responsibility for his or her welfare, uses or allows,
12 permits, or encourages the use of the child for the purposes of the sexual stimulation
13 of the perpetrator or another person;

14 ~~(62)~~~~(61)~~ "Sexual exploitation" includes but is not limited to a situation in which a
15 parent, guardian, person in a position of authority or special trust, as defined in KRS
16 532.045, or other person having custodial control or supervision of a child or
17 responsible for his or her welfare, allows, permits, or encourages the child to engage
18 in an act which constitutes prostitution under Kentucky law; or a parent, guardian,
19 person in a position of authority or special trust, as defined in KRS 532.045, or
20 other person having custodial control or supervision of a child or responsible for his
21 or her welfare, allows, permits, or encourages the child to engage in an act of
22 obscene or pornographic photographing, filming, or depicting of a child as provided
23 for under Kentucky law;

24 ~~(63)~~~~(62)~~ "Social service worker" means any employee of the cabinet or any private
25 agency designated as such by the secretary of the cabinet or a social worker
26 employed by a county or city who has been approved by the cabinet to provide,
27 under its supervision, services to families and children;

1 ~~(64)~~~~((63))~~ "Staff secure facility for residential treatment" means any setting which
2 assures that all entrances and exits are under the exclusive control of the facility
3 staff, and in which a child may reside for the purpose of receiving treatment;

4 ~~(65)~~~~((64))~~ (a) "Status offense action" is any action brought in the interest of a child
5 who is accused of committing acts, which if committed by an adult, would not
6 be a crime. Such behavior shall not be considered criminal or delinquent and
7 such children shall be termed status offenders. Status offenses shall include:

- 8 1. Beyond the control of school or beyond the control of parents;
- 9 2. Habitual Runaway;
- 10 3. Habitual truant;
- 11 4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
- 12 5. Alcohol offenses as provided in KRS 244.085.

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

15 ~~(66)~~~~((65))~~ "Take into custody" means the procedure by which a peace officer or other
16 authorized person initially assumes custody of a child. A child may be taken into
17 custody for a period of time not to exceed two (2) hours;

18 ~~(67)~~~~((66))~~ "Transitional living support" means all benefits to which an eligible youth is
19 entitled upon being granted extended or reinstated commitment to the cabinet by the
20 court;

21 ~~(68)~~~~((67))~~ "Transition plan" means a plan that is personalized at the direction of the
22 youth that:

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

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

27 ~~(69)~~~~((68))~~ "Valid court order" means a court order issued by a judge to a child alleged or

1 found to be a status offender:

- 2 (a) Who was brought before the court and made subject to the order;
- 3 (b) Whose future conduct was regulated by the order;
- 4 (c) Who was given written and verbal warning of the consequences of the
- 5 violation of the order at the time the order was issued and whose attorney or
- 6 parent or legal guardian was also provided with a written notice of the
- 7 consequences of violation of the order, which notification is reflected in the
- 8 record of the court proceedings; and
- 9 (d) Who received, before the issuance of the order, the full due process rights
- 10 guaranteed by the Constitution of the United States;

11 ~~(70)~~~~(69)~~ "Violation" means any offense, other than a traffic infraction, for which a

12 sentence of a fine only can be imposed;

13 ~~(71)~~~~(70)~~ "Youth alternative center" means a nonsecure facility, approved by the

14 Department of Juvenile Justice, for the detention of juveniles, both prior to

15 adjudication and after adjudication, which meets the criteria specified in KRS

16 15A.320; and

17 ~~(72)~~~~(71)~~ "Youthful offender" means any person regardless of age, transferred to Circuit

18 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently

19 convicted in Circuit Court.

20 ➔Section 4. KRS 605.090 is amended to read as follows:

- 21 (1) Unless precluded by law, any child committed to the Department of Juvenile Justice
- 22 or the cabinet may by the decision of the Department of Juvenile Justice or the
- 23 cabinet or its designee, at any time during the period of his or her commitment, be:
- 24 (a) Upon fourteen (14) days' prior written notice to the court, discharged from
- 25 commitment. Written notice of discharge shall be given to the committing
- 26 court and to any other parties as may be required by law;
- 27 (b) Placed in the home of the child's parents, in the home of a relative, *a fictive*

1 kin, a suitable foster home, or boarding home, upon such conditions as the
2 Department of Juvenile Justice or the cabinet may prescribe and subject to
3 visitation and supervision by a social service worker or juvenile probation and
4 parole officer.

5 1. At the time a committed child is placed in the home of his or her parents
6 by the Department of Juvenile Justice or the cabinet, the parents shall be
7 informed in writing of the conditions of the placement and the criteria
8 that will be used to determine whether removal is necessary.

9 2. At the time a committed child is placed anywhere other than the home of
10 the child's parents, the cabinet or the Department of Juvenile Justice
11 shall inform the foster home, the relative, the fictive kin, or the
12 governing authority of any private facility or agency in which the child
13 has been placed whether the minor placed is a juvenile sexual offender
14 as defined in KRS 635.505(2) or of any inappropriate sexual acts or
15 sexual behavior by the child specifically known to the cabinet or
16 Department of Juvenile Justice, and any behaviors of the child
17 specifically known to the cabinet or Department of Juvenile Justice that
18 indicate a safety risk for the placement. Information received by any
19 private facility or agency under this paragraph shall be disclosed
20 immediately and directly to the individual or individuals who have
21 physical custody of the child.

22 3. If, after a placement is made, additional information is obtained by the
23 cabinet or the Department of Juvenile Justice about inappropriate sexual
24 behavior or other behavior of the committed child that may indicate a
25 safety risk for the placement, the cabinet or the Department of Juvenile
26 Justice shall as soon as practicable, but no later than seventy-two (72)
27 hours after the additional information is received, inform the foster

1 parent, relative, *fictive kin*, or private facility or agency. Additional
2 information received by any private facility or agency shall be disclosed
3 immediately and directly to the individual or individuals who have
4 physical custody of the child.

5 4. Information disclosed under this paragraph shall be limited to the acts or
6 behaviors of the committed child and shall not constitute a violation of
7 confidentiality under KRS Chapter 610 or 620. No foster parent,
8 relative, *fictive kin*, or other person caring for a committed child shall
9 divulge the information received under this paragraph to persons who do
10 not have a legitimate interest or responsibility relating to the case.
11 Nothing in this subparagraph shall prohibit the disclosure or sharing of
12 information between a foster parent, *relative, fictive kin*, custodian,
13 private facility, or governmental entity for the protection of any child. A
14 violation of this subparagraph is a Class B misdemeanor;

15 (c) Placed in one (1) of the facilities or programs operated by the Department of
16 Juvenile Justice or the cabinet, except that no child committed under the
17 provisions of KRS 610.010(2)(a), (b), or (c) shall be placed in a facility
18 operated by the Department of Juvenile Justice for children adjudicated as a
19 public offender unless the cabinet and the department agree, and the court
20 consents, that the placement is in the best interest of the child and that the
21 placement does not exceed a group home level;

22 (d) Placed in a child-caring facility operated by a local governmental unit or by a
23 private organization willing to receive the child, upon such conditions as the
24 cabinet may prescribe;

25 (e) However, under no circumstances shall a child committed under KRS Chapter
26 620 be placed in a home, facility, or other shelter with a child who has been
27 committed to the Department of Juvenile Justice for commission of a sex

1 crime, as that term is defined in KRS 17.500, unless the child committed for
2 the commission of a sex crime is kept segregated from other children in the
3 home, facility, or other shelter that have not been committed for the
4 commission of a sex crime;

5 (f) Treated as provided in KRS Chapter 645;

6 (g) Following the transfer or placement of a child pursuant to paragraphs (b), (c),
7 (d), (e), or (f) of this subsection, the Department of Juvenile Justice or the
8 cabinet shall, within fourteen (14) days, excluding weekends and holidays,
9 give written notice to the court of the transfer, the placement, and the reasons
10 therefor.

11 (2) No child ten (10) years of age or under shall be placed in a facility operated by the
12 Department of Juvenile Justice for children adjudicated as public offenders, except
13 that a child charged with the commission of a capital offense or with an offense
14 designated as a Class A or Class B felony may be detained in a state-operated
15 detention facility when there is no available less restrictive alternative.

16 (3) If a child committed to the cabinet as dependent, neglected, or abused is placed in
17 the home of the child's parents, the child shall not be removed except in accordance
18 with the following standards and procedures:

19 (a) If the social service worker believes that the committed child continues to be
20 dependent, neglected, or abused, but immediate removal is unnecessary to
21 protect the child from imminent death or serious physical injury, the casework
22 situation and evidence shall be reviewed with his supervisor to determine
23 whether to continue work with the family intact or to remove the child. There
24 shall be documentation that the social service worker, prior to the court
25 hearing, made an effort to contact the parents to inform them of the specific
26 problems that could lead to removal so they have an opportunity to take
27 corrective action. If the parents are unavailable or do not respond to attempts

1 to communicate, the specific circumstances shall be documented;

2 (b) If it appears that the child's health or welfare or physical, mental, or emotional
3 condition is subjected to or threatened with real and substantial harm and
4 there is not reasonably available an alternative less drastic than removal of the
5 child from the home, the cabinet shall petition the District Court to review the
6 commitment pursuant to KRS 610.120 in relation to the cabinet's intention to
7 remove the child from the parent's home. The petition shall set forth the facts
8 which constitute the need for removal of the child. The court shall serve notice
9 of the petition and the time and place of the hearing on the parents; however,
10 the social service worker shall also contact the parents to ensure that they
11 received the notice and are aware of the right to be represented by counsel. If
12 the parents' whereabouts are unknown, notice may be mailed to the last known
13 address of an adult who is a near relative. If the court fails to find that the
14 child's health or welfare or physical, mental, or emotional condition is
15 subjected to or threatened with real and substantial harm, or recommends a
16 less drastic alternative that is reasonably available, the child shall not be
17 removed from the parents' home;

18 (c) If a social service worker finds a committed, unattended child who is too
19 young to take care of himself, the social service worker shall make reasonable
20 efforts to arrange for an emergency caretaker in the child's home until the
21 parents return or fail to return within a reasonable time. If no in-home
22 caretaker is available for the child, the social service worker shall request any
23 appropriate law enforcement officer to take the child into protective custody.
24 If, after a reasonable time, it appears the child has been abandoned, the cabinet
25 shall petition the District Court to review the case; or

26 (d) If there exist reasonable grounds to believe that the child is in danger of
27 imminent death or serious physical injury or is being sexually abused and that

1 the parents are unable or unwilling to protect the child, the social service
2 worker shall, with the assistance of a law enforcement officer, immediately
3 remove the child prior to filing a petition for review. Within seventy-two (72)
4 hours after the removal, the cabinet shall file a petition for review in District
5 Court pursuant to KRS 610.120 with a request for an expeditious hearing. If
6 the court fails to find that the child's health or welfare or physical, mental, or
7 emotional condition is subjected to or threatened with real and substantial
8 harm, or recommends a less drastic alternative that is reasonably available, the
9 child shall be returned to the parents' home.

10 (4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the
11 juvenile court of the county of placement with the conditions of supervised
12 placement of each child placed in that county from one (1) of the residential
13 treatment facilities operated by the Department of Juvenile Justice or the cabinet.
14 Notice of the conditions of such placement may be made available by the court to
15 any law enforcement agency.

16 (5) The person in charge of any home to which a child is probated, and the governing
17 authority of any private facility or agency to which a child is committed, shall make
18 such reports to the court as the court may require, and such reports as the
19 Department of Juvenile Justice or the cabinet may require in the performance of its
20 functions under the law. The Department of Juvenile Justice or the cabinet shall
21 have the power to make such visitations and inspections of the homes, facilities, and
22 agencies in which children who have committed public offenses have been placed
23 as it deems necessary to carry out its functions under the law.

24 (6) The Department of Juvenile Justice or the cabinet shall provide a written transfer
25 summary to the person in charge of any foster home or any governing authority of
26 any private facility or agency in which the Department of Juvenile Justice or the
27 cabinet has placed a child. The written summary shall include, at a minimum,

1 demographic information about the child, a narrative statement detailing the child's
2 prior placements, the length of time the child has been committed, a description of
3 the services and assistance provided to the child or the child's family since the most
4 current case plan, a copy of the current case plan for the child and the child's family,
5 and a copy of the child's medical and educational passport, if available, provided
6 that no information shall be provided that violates any statutory confidentiality
7 requirements. The transfer summary shall state whether the child placed is a
8 juvenile sexual offender as defined in KRS 635.505(2), and include information
9 required under subsection (1) of this section. The transfer summary shall be
10 provided by the Department of Juvenile Justice if it is responsible for the child, or
11 the cabinet if it is responsible for the child, within seven (7) days of the placement
12 of the child with the person, agency, or facility providing care to the child.

13 (7) The Department of Juvenile Justice may assist the courts in placing children who
14 have committed public offenses in boarding homes, and, under agreements with the
15 individual courts, may assume responsibility for making such placements. Counties
16 may pay or contribute towards the expenses of maintaining such children and, to the
17 extent authorized by the fiscal court, the Department of Juvenile Justice may incur
18 obligations chargeable to the county for such expenses.

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

20 (1) If a child has been removed from the home and placed in the custody of the
21 Department of Juvenile Justice or the cabinet, a judge of the District Court shall
22 conduct a permanency hearing no later than twelve (12) months after the date the
23 child is considered to have entered foster care, and every twelve (12) months
24 thereafter if custody and out-of-home placement continues, to determine the future
25 status of the child. For purposes of this section, a child shall be considered to have
26 entered foster care on the earlier of the date of the first judicial finding that the child
27 has been subjected to child abuse or neglect or the date that is sixty (60) days after

1 the date on which the child is removed from the home.

2 The court shall address the following areas:

3 (a) If parental rights have not been terminated, whether the child should be
4 returned to the parent;

5 (b) Whether the child should be placed for adoption;

6 (c) Whether the child should be placed with a permanent custodian; and

7 (d) Whether the cabinet has documented a compelling reason that it is in the best
8 interest of the child who is age sixteen (16) or older to be placed in another
9 planned permanent living arrangement other than those listed in this
10 subsection. Prior to the approval of this permanency goal, the court shall:

11 1. Ask the child about the desired permanency outcome; and

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

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

25 (3) The Department of Juvenile Justice or the cabinet shall inform the court not less
26 than sixty (60) days prior to the expiration of the time in which the hearing shall be
27 held and within the time established in subsection (1) of this section, and shall

1 further inform the court of the name and address of the child's foster parents,
2 preadoptive parents, fictive kin, or relatives providing care to the child; court-
3 appointed special advocate; and foster care review board member assigned to the
4 case. For the hearing to be held pursuant to subsection (2) of this section, the names
5 and addresses of the persons identified in this subsection shall be provided in the
6 case permanency plan or case progress report to be filed with the court. The court
7 shall set a time for the hearing and notify the child's parent, foster parents,
8 preadoptive parents, fictive kin, or relatives providing care to the child and who also
9 shall have a right to be heard; court-appointed special advocate; foster care review
10 board member assigned to the case; attorney for the child; attorney for the parent, if
11 any; and the Department of Juvenile Justice or the cabinet.

12 (4) The Department of Juvenile Justice or the cabinet shall present evidence to the court
13 concerning the care and progress of the child since the last permanency hearing,
14 including the following:

15 (a) The length of time the child has been committed to the Department of
16 Juvenile Justice or the cabinet;

17 (b) The number, location, and date for each placement during the total period of
18 the child's commitment;

19 (c) A description of the services and assistance provided to the parent or arranged
20 by the Department of Juvenile Justice or the cabinet since the last case
21 permanency plan or case progress report, and the results achieved;

22 (d) A description of the efforts and progress of the child's parent since the last
23 case permanency plan and case progress report, including the number and
24 dates of parental visits and the extent, quality, and frequency of the parent's
25 communication with the child;

26 (e) The familial and institutional barriers to:

27 1. Returning the child to the home;

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

1 providing care to the child shall have the right to be heard; and

2 (b) The attorney for the parent, attorney for the child, or court-appointed special
3 advocate, if deemed appropriate by the court, may present any evidence
4 relevant to the determination of a permanency goal for the child.

5 (6) Upon conclusion of the hearing the court shall make a written order determining the
6 permanency plan for the child.

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

9 ➔Section 6. KRS 620.140 is amended to read as follows:

10 (1) In determining the disposition of all cases brought on behalf of dependent,
11 neglected, or abused children, the juvenile session of the District Court, in the best
12 interest of the child, shall have but shall not be limited to the following
13 dispositional alternatives:

14 (a) Informal adjustment of the case;

15 (b) Protective orders, such as the following:

16 1. Requiring the parent or any other person to abstain from any conduct
17 abusing, neglecting, or making the child dependent;

18 2. Placing the child in his own home under supervision of the cabinet or its
19 designee with services as determined to be appropriate by the cabinet;
20 and

21 3. Orders authorized by KRS 403.715 to 403.785 and by KRS Chapter
22 456;

23 (c) Removal of the child to the custody of an adult relative, fictive kin, other
24 person, or child-caring facility or child-placing agency, taking into
25 consideration the wishes of the parent or other person exercising custodial
26 control or supervision. Before any child is committed to the cabinet or placed
27 out of his home under the supervision of the cabinet, the court shall determine

- 1 that reasonable efforts have been made by the court or the cabinet to prevent
2 or eliminate the need for removal and that continuation in the home would be
3 contrary to the welfare of the child;
- 4 (d) Commitment of the child to the custody of the cabinet for placement for an
5 indeterminate period of time not to exceed his or her attainment of the age
6 eighteen (18), unless the youth elects to extend his or her commitment beyond
7 the age of eighteen (18) under paragraph (e) of this subsection. Beginning at
8 least six (6) months prior to an eligible youth attaining the age of eighteen
9 (18), the cabinet shall provide the eligible youth with education,
10 encouragement, assistance, and support regarding the development of a
11 transition plan, and inform the eligible youth of his or her right to extend
12 commitment beyond the age of eighteen (18); or
- 13 (e) Extend or reinstate an eligible youth's commitment up to the age of twenty-
14 one (21) to receive transitional living support. The request shall be made by
15 the youth prior to attaining nineteen (19) years of age. Upon receipt of the
16 request and with the concurrence of the cabinet, the court may authorize
17 commitment up to the age of twenty-one (21).
- 18 (2) An order of temporary custody to the cabinet shall not be considered as a
19 permissible dispositional alternative.