

1 AN ACT relating to child welfare.

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

3 ➔Section 1. KRS 600.020 is amended to read as follows:

4 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

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

7 (a) His or her parent, guardian, person in a position of authority or special trust, as
8 defined in KRS 532.045, or other person exercising custodial control or
9 supervision of the child:

- 10 1. Inflicts or allows to be inflicted upon the child physical or emotional
11 injury as defined in this section by other than accidental means;
- 12 2. Creates or allows to be created a risk of physical or emotional injury as
13 defined in this section to the child by other than accidental means;
- 14 3. Engages in a pattern of conduct that renders the parent incapable of
15 caring for the immediate and ongoing needs of the child, including but
16 not limited to parental incapacity due to a substance use disorder as
17 defined in KRS 222.005;
- 18 4. Continuously or repeatedly fails or refuses to provide essential parental
19 care and protection for the child, considering the age of the child;
- 20 5. Commits or allows to be committed an act of sexual abuse, sexual
21 exploitation, or prostitution upon the child;
- 22 6. Creates or allows to be created a risk that an act of sexual abuse, sexual
23 exploitation, or prostitution will be committed upon the child;
- 24 7. Abandons or exploits the child;
- 25 8. Does not provide the child with adequate care, supervision, food,
26 clothing, shelter, and education or medical care necessary for the child's
27 well-being. A parent or other person exercising custodial control or

- 1 supervision of the child legitimately practicing the person's religious
2 beliefs shall not be considered a negligent parent solely because of
3 failure to provide specified medical treatment for a child for that reason
4 alone. This exception shall not preclude a court from ordering necessary
5 medical services for a child;
- 6 9. Fails to make sufficient progress toward identified goals as set forth in
7 the court-approved case plan to allow for the safe return of the child to
8 the parent that results in the child remaining committed to the cabinet
9 and remaining in foster care for fifteen (15) cumulative months out of
10 forty-eight (48) months; or
- 11 10. Commits or allows female genital mutilation as defined in KRS 508.125
12 to be committed; or
- 13 (b) A person twenty-one (21) years of age or older commits or allows to be
14 committed an act of sexual abuse, sexual exploitation, or prostitution upon a
15 child less than sixteen (16) years of age;
- 16 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
17 675(11);
- 18 (3) "Aggravated circumstances" means the existence of one (1) or more of the
19 following conditions:
- 20 (a) The parent has not attempted or has not had contact with the child for a period
21 of not less than ninety (90) days;
- 22 (b) The parent is incarcerated and will be unavailable to care for the child for a
23 period of at least one (1) year from the date of the child's entry into foster care
24 and there is no appropriate relative placement available during this period of
25 time;
- 26 (c) The parent has sexually abused the child and has refused available treatment;
- 27 (d) The parent has been found by the cabinet to have engaged in abuse of the

- 1 child that required removal from the parent's home two (2) or more times in
2 the past two (2) years; or
- 3 (e) The parent has caused the child serious physical injury;
- 4 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
5 the reasonable directives of his or her parents, legal guardian, or person exercising
6 custodial control or supervision other than a state agency, which behavior results in
7 danger to the child or others, and which behavior does not constitute behavior that
8 would warrant the filing of a petition under KRS Chapter 645;
- 9 (5) "Beyond the control of school" means any child who has been found by the court to
10 have repeatedly violated the lawful regulations for the government of the school as
11 provided in KRS 158.150, and as documented in writing by the school as a part of
12 the school's petition or as an attachment to the school's petition. The petition or
13 attachment shall describe the student's behavior and all intervention strategies
14 attempted by the school;
- 15 (6) "Boarding home" means a privately owned and operated home for the boarding and
16 lodging of individuals which is approved by the Department of Juvenile Justice or
17 the cabinet for the placement of children committed to the department or the
18 cabinet;
- 19 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 20 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,
21 and who have completed a course of education and training in juvenile detention
22 developed and approved by, the Department of Juvenile Justice after consultation
23 with other appropriate state agencies;
- 24 (9) "Child" means any person who has not reached his or her eighteenth birthday,
25 unless otherwise provided;
- 26 (10) "Child-caring facility" means any facility or group home other than a state facility,
27 Department of Juvenile Justice contract facility or group home, or one certified by

- 1 an appropriate agency as operated primarily for educational or medical purposes,
2 providing residential care on a twenty-four (24) hour basis to children not related by
3 blood, adoption, or marriage to the person maintaining the facility;
- 4 (11) "Child-placing agency" means any agency, other than a state agency, which
5 supervises the placement of children in foster family homes or child-caring facilities
6 or which places children for adoption;
- 7 (12) "Clinical treatment facility" means a facility with more than eight (8) beds
8 designated by the Department of Juvenile Justice or the cabinet for the treatment of
9 mentally ill children. The treatment program of such facilities shall be supervised by
10 a qualified mental health professional;
- 11 (13) "Commitment" means an order of the court which places a child under the custodial
12 control or supervision of the Cabinet for Health and Family Services, Department of
13 Juvenile Justice, or another facility or agency until the child attains the age of
14 eighteen (18) unless otherwise provided by law;
- 15 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
16 operated, or permitted to operate by the Department of Juvenile Justice or the
17 cabinet, which is located within a reasonable proximity of the child's family and
18 home community, which affords the child the opportunity, if a Kentucky resident, to
19 continue family and community contact;
- 20 (15) "Complaint" means a verified statement setting forth allegations in regard to the
21 child which contain sufficient facts for the formulation of a subsequent petition;
- 22 (16) "Court" means the juvenile session of District Court unless a statute specifies the
23 adult session of District Court or the Circuit Court;
- 24 (17) "Court-designated worker" means that organization or individual delegated by the
25 Administrative Office of the Courts for the purposes of placing children in
26 alternative placements prior to arraignment, conducting preliminary investigations,
27 and formulating, entering into, and supervising diversion agreements and

- 1 performing such other functions as authorized by law or court order;
- 2 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 3 (19) "Department" means the Department for Community Based Services;
- 4 (20) "Dependent child" means any child, other than an abused or neglected child, who is
5 under improper care, custody, control, or guardianship that is not due to an
6 intentional act of the parent, guardian, or person exercising custodial control or
7 supervision of the child;
- 8 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
9 conduct subject to the jurisdiction of the court who requires a restricted or closely
10 supervised environment for his or her own or the community's protection;
- 11 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
12 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
13 period of detention prior to adjudication;
- 14 (23) "Diversion agreement" means a mechanism designed to hold a child accountable for
15 his or her behavior and, if appropriate, securing services to serve the best interest of
16 the child and to provide redress for that behavior without court action and without
17 the creation of a formal court record;
- 18 (24) "Eligible youth" means a person who:
- 19 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 20 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 21 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
22 order to participate in state or federal educational programs or to establish
23 independent living arrangements;
- 24 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
25 homelike facility which provides temporary or emergency care of children and
26 adequate staff and services consistent with the needs of each child;
- 27 (26) "Emotional injury" means an injury to the mental or psychological capacity or

- 1 emotional stability of a child as evidenced by a substantial and observable
2 impairment in the child's ability to function within a normal range of performance
3 and behavior with due regard to his or her age, development, culture, and
4 environment as testified to by a qualified mental health professional;
- 5 (27) "Evidence-based practices" means policies, procedures, programs, and practices
6 proven by scientific research to reliably produce reductions in recidivism;
- 7 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
8 to a child, but who has an emotionally significant relationship with the child;
- 9 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 10 (30) "Foster family home" means a private home in which children are placed for foster
11 family care under supervision of the cabinet or a licensed child-placing agency;
- 12 (31) "Graduated sanction" means any of a continuum of accountability measures,
13 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
14 that may include but are not limited to:
- 15 (a) Electronic monitoring;
- 16 (b) Drug and alcohol screening, testing, or monitoring;
- 17 (c) Day or evening reporting centers;
- 18 (d) Reporting requirements;
- 19 (e) Community service; and
- 20 (f) Rehabilitative interventions such as family counseling, substance abuse
21 treatment, restorative justice programs, and behavioral or mental health
22 treatment;
- 23 (32) "Habitual runaway" means any child who has been found by the court to have been
24 absent from his or her place of lawful residence without the permission of his or her
25 custodian for at least three (3) days during a one (1) year period;
- 26 (33) "Habitual truant" means any child who has been found by the court to have been
27 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a

- 1 one (1) year period;
- 2 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
3 public facility, health care facility, or part thereof, which is approved by the cabinet
4 to treat children;
- 5 (35) "Independent living" means those activities necessary to assist a committed child to
6 establish independent living arrangements;
- 7 (36) "Informal adjustment" means an agreement reached among the parties, with
8 consultation, but not the consent, of the victim of the crime or other persons
9 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
10 after a petition has been filed, which is approved by the court, that the best interest
11 of the child would be served without formal adjudication and disposition;
- 12 (37) "Intentionally" means, with respect to a result or to conduct described by a statute
13 which defines an offense, that the actor's conscious objective is to cause that result
14 or to engage in that conduct;
- 15 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
16 the program developed on the child's behalf is no more harsh, hazardous, or
17 intrusive than necessary; or involves no restrictions on physical movements nor
18 requirements for residential care except as reasonably necessary for the protection
19 of the child from physical injury; or protection of the community, and is conducted
20 at the suitable available facility closest to the child's place of residence to allow for
21 appropriate family engagement;
- 22 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
23 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 24 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
25 serious or critical condition;
- 26 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 27 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who

- 1 has not been otherwise charged with a status or public offense;
- 2 (43) "Nonsecure facility" means a facility which provides its residents access to the
3 surrounding community and which does not rely primarily on the use of physically
4 restricting construction and hardware to restrict freedom;
- 5 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a
6 child's own home, where a child may be temporarily placed pending further court
7 action. Children before the court in a county that is served by a state operated secure
8 detention facility, who are in the detention custody of the Department of Juvenile
9 Justice, and who are placed in a nonsecure alternative by the Department of
10 Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 11 (45) "Out-of-home placement" means a placement other than in the home of a parent,
12 relative, or guardian, in a boarding home, clinical treatment facility, community-
13 based facility, detention facility, emergency shelter, fictive kin home, foster family
14 home, hospital, nonsecure facility, physically secure facility, residential treatment
15 facility, or youth alternative center;
- 16 (46) "Parent" means the biological or adoptive mother or father of a child;
- 17 (47) "Person exercising custodial control or supervision" means a person or agency that
18 has assumed the role and responsibility of a parent or guardian for the child, but that
19 does not necessarily have legal custody of the child;
- 20 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,
21 which initiates formal court involvement in the child's case;
- 22 (49) "Physical injury" means substantial physical pain or any impairment of physical
23 condition;
- 24 (50) "Physically secure facility" means a facility that relies primarily on the use of
25 construction and hardware such as locks, bars, and fences to restrict freedom;
- 26 (51) "Public offense action" means an action, excluding contempt, brought in the interest
27 of a child who is accused of committing an offense under KRS Chapter 527 or a

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

4 (52) "Qualified mental health professional" means:

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

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

- 1 Physician Assistant or its predecessor or successor agencies, is
2 practicing under a supervising physician as defined by KRS 311.840,
3 and:
- 4 a. Has two (2) years of clinical experience in the assessment,
5 evaluation, and treatment of mental disorders; or
 - 6 b. Has been employed by a hospital or forensic psychiatric facility
7 licensed by the Commonwealth or a psychiatric unit of a general
8 hospital or a private agency or company engaged in the provision
9 of mental health services or a regional community program for
10 mental health and individuals with an intellectual disability for at
11 least two (2) years; or
- 12 4. Holds a bachelor's degree, possesses a current physician assistant
13 certificate issued by the board prior to July 15, 2002, is practicing under
14 a supervising physician as defined by KRS 311.840, and:
- 15 a. Has three (3) years of clinical experience in the assessment,
16 evaluation, and treatment of mental disorders; or
 - 17 b. Has been employed by a hospital or forensic psychiatric facility
18 licensed by the Commonwealth or a psychiatric unit of a general
19 hospital or a private agency or company engaged in the provision
20 of mental health services or a regional community program for
21 mental health and individuals with an intellectual disability for at
22 least three (3) years;
- 23 (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.
24 sec. 675(10);
- 25 (54) "Residential treatment facility" means a facility or group home with more than eight
26 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
27 treatment of children;

- 1 (55) "Retain in custody" means, after a child has been taken into custody, the continued
2 holding of the child by a peace officer for a period of time not to exceed twelve (12)
3 hours when authorized by the court or the court-designated worker for the purpose
4 of making preliminary inquiries;
- 5 (56) "Risk and needs assessment" means an actuarial tool scientifically proven to
6 identify specific factors and needs that are related to delinquent and noncriminal
7 misconduct;
- 8 (57) "School personnel" means those certified persons under the supervision of the local
9 public or private education agency;
- 10 (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 11 (59) "Secure juvenile detention facility" means any physically secure facility used for the
12 secure detention of children other than any facility in which adult prisoners are
13 confined;
- 14 (60) "Serious physical injury" means physical injury which creates a substantial risk of
15 death or which causes serious and prolonged disfigurement, prolonged impairment
16 of health, or prolonged loss or impairment of the function of any bodily member or
17 organ;
- 18 (61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions
19 in which the parent, guardian, person in a position of authority or special trust, as
20 defined in KRS 532.045, or other person having custodial control or supervision of
21 the child or responsibility for his or her welfare, uses or allows, permits, or
22 encourages the use of the child for the purposes of the sexual stimulation of the
23 perpetrator or another person;
- 24 (62) "Sexual exploitation" includes but is not limited to a situation in which a parent,
25 guardian, person in a position of authority or special trust, as defined in KRS
26 532.045, or other person having custodial control or supervision of a child or
27 responsible for his or her welfare, allows, permits, or encourages the child to engage

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

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

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

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

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

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

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

27 (67) "Transitional living support" means all benefits to which an eligible youth is

1 entitled upon being granted extended or reinstated commitment to the cabinet by the
2 court;

3 (68) "Transition plan" means a plan that is personalized at the direction of the youth that:

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

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

8 (69) "Valid court order" means a court order issued by a judge to a child alleged or found
9 to be a status offender:

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

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

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

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

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

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

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