

1 AN ACT relating to the protection of mothers and their children.

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

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 (1) *As used in this section:*

6 (a) *"Exchange":*

7 1. *Means a governmental agency or nonprofit entity that makes qualified*
8 *health plans, as defined in 42 U.S.C. sec. 18021, as amended,*
9 *available to qualified individuals and qualified employers; and*

10 2. *Includes:*

11 a. *An exchange serving the individual market for qualified*
12 *individuals; and*

13 b. *A small business health options program serving the small group*
14 *market for qualified employers; and*

15 (b) *"Health benefit plan" has the same meaning as in KRS 304.17A-005,*
16 *except for purposes of this section the term includes:*

17 1. *Short-term limited-duration coverage; and*

18 2. *Student health insurance offered by a Kentucky-licensed insurer*
19 *under written contract with a university or college whose students it*
20 *proposes to insure.*

21 (2) *To the extent permitted by federal law:*

22 (a) *The following shall provide a special enrollment period to pregnant*
23 *individuals who are eligible for coverage:*

24 1. *Any insurer offering a health benefit plan; or*

25 2. *Any exchange operating in this state;*

26 (b) *Except as provided in paragraph (c) of this subsection, the insurer or*
27 *exchange shall allow the pregnant individual, and any individual who is*

1 eligible for coverage because of a relationship to the pregnant individual, to
2 enroll for coverage under the plan or on the exchange at any time during
3 the pregnancy;

4 (c) If the insurer or exchange is required under federal law to limit the
5 enrollment period to a period that is less than the period provided in
6 paragraph (b) of this subsection:

7 1. The enrollment period shall not be less than the maximum period of
8 time permitted under the federal law; and

9 2. The enrollment period shall begin not earlier than the date that the
10 individual receives confirmation of the pregnancy from a medical
11 professional;

12 (d) The coverage required under this subsection shall begin no later than the
13 first day of the first calendar month in which a medical professional
14 determines that the pregnancy began, except that a pregnant individual may
15 direct coverage to begin on the first day of the month occurring after that
16 date but during the pregnancy; and

17 (e) If a directive under paragraph (d) of this subsection falls outside of the
18 pregnancy period, the coverage required under this subsection shall begin
19 no later than the first day of the last month that occurred during the
20 pregnancy.

21 (3) For group health plans and insurers offering group health insurance coverage in
22 Kentucky, the plan or insurer shall, at or before the time an individual is initially
23 offered the opportunity to enroll in the plan or coverage, provide the individual
24 with a notice of the special enrollment rights under this section.

25 (4) (a) Except as provided in Section 7 of this Act, nothing in this section shall be
26 construed to imply that the insured is not responsible for the payment of
27 premiums for each month during which coverage is provided.

1 **(b) For any coverage provided under this section, the original or first premium**
 2 **shall become due and owing not earlier than thirty (30) days after the date**
 3 **of enrollment.**

4 ➔Section 2. KRS 304.17A-145 is amended to read as follows:

5 (1) **As used in this section, "health benefit plan" has the same meaning as in KRS**
 6 **304.17A-005, except that for purposes of this section, the term includes:**

7 **(a) Short-term limited-duration coverage; and**

8 **(b) Student health insurance offered by a Kentucky-licensed insurer under**
 9 **written contract with a university or college whose students it proposes to**
 10 **insure.**

11 **(2) (a)** A health benefit plan **shall provide**~~[issued or renewed on or after July 15,~~
 12 ~~1996, that provides]~~ maternity coverage.

13 **(b) The coverage required by this subsection includes coverage for:**~~[shall~~
 14 ~~provide]~~

15 **1. All individuals covered under the plan, including dependents,**
 16 **regardless of age;**

17 **2. Maternity care associated with pregnancy, childbirth, and postpartum**
 18 **care;**

19 **3. Labor and delivery;**

20 **4. All breastfeeding services and supplies required under 42 U.S.C. sec.**
 21 **300gg-13(a) and any related federal regulations, as amended; and**

22 **5. [Coverage for]Except as provided in subsection (3) of this section,**
 23 inpatient care for a mother and her **newly born**~~[newly born]~~ child for a
 24 minimum of:

25 **a.** Forty-eight (48) hours after vaginal delivery; **or**~~[and a minimum~~
 26 ~~of]~~

27 **b.** Ninety-six (96) hours after delivery by Cesarean section.

1 ~~(3)(2)~~ The provisions of subsection ~~(2)(b)5.(1)~~ of this section shall not apply to a
2 health benefit plan if:

3 (a) The ~~health benefit~~ plan authorizes an initial postpartum home visit which
4 would include the collection of an adequate sample for the hereditary and
5 metabolic newborn screening; and ~~if~~

6 (b) The attending physician, with the consent of the mother of the newly
7 born ~~newly born~~ child, authorizes a shorter length of stay ~~than that required~~
8 ~~of health benefit plans in subsection (1) of this section~~ upon the physician's
9 determination that the mother and newborn meet the criteria for medical
10 stability in the most current version of "Guidelines for Perinatal Care"
11 prepared by the American Academy of Pediatrics and the American College
12 of Obstetricians and Gynecologists.

13 ➔Section 3. KRS 304.17A-220 is amended to read as follows:

14 (1) All group health plans and insurers offering group health insurance coverage in the
15 Commonwealth shall comply with Section 1 of this Act and the provisions of this
16 section.

17 (2) Subject to subsection (8) of this section, a group health plan, and a health insurance
18 insurer offering group health insurance coverage, may, with respect to a participant
19 or beneficiary, impose a pre-existing condition exclusion only if:

20 (a) The exclusion relates to a condition, whether physical or mental, regardless of
21 the cause of the condition, for which medical advice, diagnosis, care, or
22 treatment was recommended or received within the six (6) month period
23 ending on the enrollment date. For purposes of this paragraph:

24 1. Medical advice, diagnosis, care, or treatment is taken into account only
25 if it is recommended by, or received from, an individual licensed or
26 similarly authorized to provide such services under state law and
27 operating within the scope of practice authorized by state law; and

- 1 2. The six (6) month period ending on the enrollment date begins on the
2 six (6) month anniversary date preceding the enrollment date;
- 3 (b) The exclusion extends for a period of not more than twelve (12) months, or
4 eighteen (18) months in the case of a late enrollee, after the enrollment date;
- 5 (c) 1. The period of any pre-existing condition exclusion that would otherwise
6 apply to an individual is reduced by the number of days of creditable
7 coverage the individual has as of the enrollment date, as counted under
8 subsection (3) of this section; and
- 9 2. Except for ineligible individuals who apply for coverage in the
10 individual market, the period of any pre-existing condition exclusion
11 that would otherwise apply to an individual may be reduced by the
12 number of days of creditable coverage the individual has as of the
13 effective date of coverage under the policy; and
- 14 (d) A written notice of the pre-existing condition exclusion is provided to
15 participants under the plan, and the insurer cannot impose a pre-existing
16 condition exclusion with respect to a participant or a dependent of the
17 participant until such notice is provided.
- 18 (3) In reducing the pre-existing condition exclusion period that applies to an individual,
19 the amount of creditable coverage is determined by counting all the days on which
20 the individual has one (1) or more types of creditable coverage. For purposes of
21 counting creditable coverage:
- 22 (a) If on a particular day the individual has creditable coverage from more than
23 one (1) source, all the creditable coverage on that day is counted as one (1)
24 day;
- 25 (b) Any days in a waiting period for coverage are not creditable coverage;
- 26 (c) Days of creditable coverage that occur before a significant break in coverage
27 are not required to be counted; and

- 1 (d) Days in a waiting period and days in an affiliation period are not taken into
2 account in determining whether a significant break in coverage has occurred.
- 3 (4) An insurer may determine the amount of creditable coverage in another manner
4 than established in subsection (3) of this section that is at least as favorable to the
5 individual as the method established in subsection (3) of this section.
- 6 (5) If an insurer receives creditable coverage information, the insurer shall make a
7 determination regarding the amount of the individual's creditable coverage and the
8 length of any pre-existing exclusion period that remains. A written notice of the
9 length of the pre-existing condition exclusion period that remains after offsetting
10 for prior creditable coverage shall be issued by the insurer. An insurer may not
11 impose any limit on the amount of time that an individual has to present a
12 certificate or evidence of creditable coverage.
- 13 (6) For purposes of this section:
- 14 (a) "Pre-existing condition exclusion" means, with respect to coverage, a
15 limitation or exclusion of benefits relating to a condition based on the fact that
16 the condition was present before the effective date of coverage, whether or not
17 any medical advice, diagnosis, care, or treatment was recommended or
18 received before that day. A pre-existing condition exclusion includes any
19 exclusion applicable to an individual as a result of information relating to an
20 individual's health status before the individual's effective date of coverage
21 under a health benefit plan;
- 22 (b) "Enrollment date" means, with respect to an individual covered under a group
23 health plan or health insurance coverage, the first day of coverage or, if there
24 is a waiting period, the first day of the waiting period. If an individual
25 receiving benefits under a group health plan changes benefit packages, or if
26 the employer changes its group health insurer, the individual's enrollment date
27 does not change;

- 1 (c) "First day of coverage" means, in the case of an individual covered for
2 benefits under a group health plan, the first day of coverage under the plan
3 and, in the case of an individual covered by health insurance coverage in the
4 individual market, the first day of coverage under the policy or contract;
- 5 (d) "Late enrollee" means an individual whose enrollment in a plan is a late
6 enrollment;
- 7 (e) "Late enrollment" means enrollment of an individual under a group health
8 plan other than:
- 9 1. On the earliest date on which coverage can become effective for the
10 individual under the terms of the plan; or
11 2. Through special enrollment;
- 12 (f) "Significant break in coverage" means a period of sixty-three (63) consecutive
13 days during each of which an individual does not have any creditable
14 coverage; and
- 15 (g) "Waiting period" means the period that must pass before coverage for an
16 employee or dependent who is otherwise eligible to enroll under the terms of
17 a group health plan can become effective. If an employee or dependent enrolls
18 as a late enrollee or special enrollee, any period before such late or special
19 enrollment is not a waiting period. If an individual seeks coverage in the
20 individual market, a waiting period begins on the date the individual submits a
21 substantially complete application for coverage and ends on:
- 22 1. If the application results in coverage, the date coverage begins; or
23 2. If the application does not result in coverage, the date on which the
24 application is denied by the insurer or the date on which the offer of
25 coverage lapses.
- 26 (7) (a) 1. Except as otherwise provided under subsection (3) of this section, for
27 purposes of applying subsection (2)(c) of this section, a group health

- 1 plan, and a health insurance insurer offering group health insurance
2 coverage, shall count a period of creditable coverage without regard to
3 the specific benefits covered during the period.
- 4 2. A group health plan, or a health insurance insurer offering group health
5 insurance coverage, may elect to apply subsection (2)(c) of this section
6 based on coverage of benefits within each of several classes or
7 categories of benefits specified in federal regulations. This election shall
8 be made on a uniform basis for all participants and beneficiaries. Under
9 this election, a group health plan or insurer shall count a period of
10 creditable coverage with respect to any class or category of benefits if
11 any level of benefits is covered within this class or category.
- 12 3. In the case of an election with respect to a group health plan under
13 subparagraph 2. of this paragraph, whether or not health insurance
14 coverage is provided in connection with the plan, the plan shall:
- 15 a. Prominently state in any disclosure statements concerning the
16 plan, and state to each enrollee at the time of enrollment under the
17 plan, that the plan has made this election; and
- 18 b. Include in these statements a description of the effect of this
19 election.
- 20 (b) Periods of creditable coverage with respect to an individual shall be
21 established through presentation of certifications described in subsection (9)
22 of this section or in such other manner as may be specified in administrative
23 regulations.
- 24 (8) (a) Subject to paragraph (e) of this subsection, a group health plan, and a health
25 insurance insurer offering group health insurance coverage, may not impose
26 any pre-existing condition exclusion on a child who, within thirty (30) days
27 after birth, is covered under any creditable coverage. If a child is enrolled in a

1 group health plan or other creditable coverage within thirty (30) days after
2 birth and subsequently enrolls in another group health plan without a
3 significant break in coverage, the other group health plan may not impose any
4 pre-existing condition exclusion on the child.

5 (b) Subject to paragraph (e) of this subsection, a group health plan, and a health
6 insurance insurer offering group health insurance coverage, may not impose
7 any pre-existing condition exclusion on a child who is adopted or placed for
8 adoption before attaining eighteen (18) years of age and who, within thirty
9 (30) days after the adoption or placement for adoption, is covered under any
10 creditable coverage. If a child is enrolled in a group health plan or other
11 creditable coverage within thirty (30) days after adoption or placement for
12 adoption and subsequently enrolls in another group health plan without a
13 significant break in coverage, the other group health plan may not impose any
14 pre-existing condition exclusion on the child. This shall not apply to coverage
15 before the date of the adoption or placement for adoption.

16 (c) A group health plan may not impose any pre-existing condition exclusion
17 relating to pregnancy.

18 (d) A group health plan may not impose a pre-existing condition exclusion
19 relating to a condition based solely on genetic information. If an individual is
20 diagnosed with a condition, even if the condition relates to genetic
21 information, the insurer may impose a pre-existing condition exclusion with
22 respect to the condition, subject to other requirements of this section.

23 (e) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual
24 after the end of the first sixty-three (63) day period during all of which the
25 individual was not covered under any creditable coverage.

26 (9) (a) 1. A group health plan, and a health insurance insurer offering group health
27 insurance coverage, shall provide a certificate of creditable coverage as

1 described in subparagraph 2. of this ~~paragraph~~^{subsection}. A
2 certificate of creditable coverage shall be provided, without charge, for
3 participants or dependents who are or were covered under a group health
4 plan upon the occurrence of any of the following events:

- 5 a. At the time an individual ceases to be covered under a health
6 benefit plan or otherwise becomes eligible under a COBRA
7 continuation provision;
- 8 b. In the case of an individual becoming covered under a COBRA
9 continuation provision, at the time the individual ceases to be
10 covered under the COBRA continuation provision; and
- 11 c. On request on behalf of an individual made not later than twenty-
12 four (24) months after the date of cessation of the coverage
13 described in subdivision a. or b. of this subparagraph, whichever is
14 later.

15 The certificate of creditable coverage as described under subdivision a.
16 of this subparagraph may be provided, to the extent practicable, at a time
17 consistent with notices required under any applicable COBRA
18 continuation provision.

- 19 2. The certification described in this subparagraph is a written certification
20 of:
 - 21 a. The period of creditable coverage of the individual under the
22 health benefit plan and the coverage, if any, under the COBRA
23 continuation provision; and
 - 24 b. The waiting period, if any, and affiliation period, if applicable,
25 imposed with respect to the individual for any coverage under the
26 plan.
- 27 3. To the extent that medical care under a group health plan consists of

1 group health insurance coverage, the plan is deemed to have satisfied the
2 certification requirement under this paragraph if the health insurance
3 insurer offering the coverage provides for the certification in accordance
4 with this paragraph.

5 (b) In the case of an election described in subsection (7)(a)2. of this section by a
6 group health plan or health insurance insurer, if the plan or insurer enrolls an
7 individual for coverage under the plan and the individual provides a
8 certification of coverage of the individual under paragraph (a) of this
9 subsection:

- 10 1. Upon request of that plan or insurer, the entity that issued the
11 certification provided by the individual shall promptly disclose to the
12 requesting plan or insurer information on coverage of classes and
13 categories of health benefits available under the entity's plan or
14 coverage; and
- 15 2. The entity may charge the requesting plan or insurer for the reasonable
16 cost of disclosing this information.

17 (10) (a) A group health plan, and a health insurance insurer offering group health
18 insurance coverage in connection with a group health plan, shall permit an
19 employee who is eligible but not enrolled for coverage under the terms of the
20 plan, or a dependent of that employee if the dependent is eligible but not
21 enrolled for coverage under these terms, to enroll for coverage under the
22 terms of the plan if each of the following conditions is met:

- 23 1. The employee or dependent was covered under a group health plan or
24 had health insurance coverage at the time coverage was previously
25 offered to the employee or dependent;
- 26 2. The employee stated in writing at that time that coverage under a group
27 health plan or health insurance coverage was the reason for declining

- 1 enrollment, but only if the plan sponsor or insurer, if applicable,
2 required that statement at that time and provided the employee with
3 notice of the requirement, and the consequences of the requirement, at
4 that time;
- 5 3. The employee's or dependent's coverage described in subparagraph 1. of
6 this paragraph:
- 7 a. Was under a COBRA continuation provision and the coverage
8 under that provision was exhausted; or
- 9 b. Was not under such a provision and either the coverage was
10 terminated as a result of loss of eligibility for the coverage,
11 including as a result of legal separation, divorce, cessation of
12 dependent status, such as obtaining the maximum age to be
13 eligible as a dependent child, death of the employee, termination
14 of employment, reduction in the number of hours of employment,
15 employer contributions toward the coverage were terminated, a
16 situation in which an individual incurs a claim that would meet or
17 exceed a lifetime limit on all benefits, or a situation in which a
18 plan no longer offers any benefits to the class of similarly situated
19 individuals that includes the individual; or
- 20 c. Was offered through a health maintenance organization or other
21 arrangement in the group market that does not provide benefits to
22 individuals who no longer reside, live, or work in a service area
23 and, loss of coverage in the group market occurred because an
24 individual no longer resides, lives, or works in the service area,
25 whether or not within the choice of the individual, and no other
26 benefit package is available to the individual; and
- 27 4. An insurer shall allow an employee and dependent a period of at least

1 thirty (30) days after an event described in this paragraph has occurred
2 to request enrollment for the employee or the employee's dependent.
3 Coverage shall begin no later than the first day of the first calendar
4 month beginning after the date the insurer receives the request for
5 special enrollment.

6 (b) A dependent of a current employee, including the employee's spouse, and the
7 employee each are eligible for enrollment in the group health plan subject to
8 plan eligibility rules conditioning dependent enrollment on enrollment of the
9 employee if the requirements of paragraph (a) of this subsection are satisfied.

10 (c) 1. If:

11 a. A group health plan makes coverage available with respect to a
12 dependent of an individual;

13 b. The individual is a participant under the plan, or has met any
14 waiting period applicable to becoming a participant under the plan
15 and is eligible to be enrolled under the plan but for a failure to
16 enroll during a previous enrollment period; and

17 c. A person becomes such a dependent of the individual through
18 marriage, birth, or adoption or placement for adoption;

19 the group health plan shall provide for a dependent special enrollment
20 period described in subparagraph 2. of this paragraph during which the
21 person or, if not otherwise enrolled, the individual, may be enrolled
22 under the plan as a dependent of the individual, and in the case of the
23 birth or adoption of a child, the spouse of the individual may be enrolled
24 as a dependent of the individual if the spouse is otherwise eligible for
25 coverage.

26 2. A dependent special enrollment period under this subparagraph shall be
27 a period of at least thirty (30) days and shall begin on the later of:

- 1 a. The date dependent coverage is made available; or
- 2 b. The date of the marriage, birth, or adoption or placement for
- 3 adoption, as the case may be, described in subparagraph 1.c. of
- 4 this paragraph.
- 5 3. If an individual seeks to enroll a dependent during the first thirty (30)
- 6 days of the dependent special enrollment period, the coverage of the
- 7 dependent shall become effective:
- 8 a. In the case of marriage, not later than the first day of the first
- 9 month beginning after the date the completed request for
- 10 enrollment is received;
- 11 b. In the case of a dependent's birth, as of the date of the birth; or
- 12 c. In the case of a dependent's adoption or placement for adoption,
- 13 the date of the adoption or placement for adoption.
- 14 (d) At or before the time an employee is initially offered the opportunity to enroll
- 15 in a group health plan, the employer shall provide the employee with a notice
- 16 of special enrollment rights.
- 17 (11) (a) In the case of a group health plan that offers medical care through health
- 18 insurance coverage offered by a health maintenance organization, the plan
- 19 may provide for an affiliation period with respect to coverage through the
- 20 organization only if:
- 21 1. No pre-existing condition exclusion is imposed with respect to coverage
- 22 through the organization;
- 23 2. The period is applied uniformly without regard to any health status-
- 24 related factors; and
- 25 3. The period does not exceed two (2) months, or three (3) months in the
- 26 case of a late enrollee.
- 27 (b) 1. For purposes of this section, the term "affiliation period" means a period

1 which, under the terms of the health insurance coverage offered by the
2 health maintenance organization, must expire before the health
3 insurance coverage becomes effective. The organization is not required
4 to provide health care services or benefits during this period and no
5 premium shall be charged to the participant or beneficiary for any
6 coverage during the period.

- 7 2. This period shall begin on the enrollment date.
8 3. An affiliation period under a plan shall run concurrently with any
9 waiting period under the plan.

10 (c) A health maintenance organization described in paragraph (a) of this
11 subsection may use alternative methods other than those described in that
12 paragraph to address adverse selection as approved by the commissioner.

13 ➔Section 4. KRS 18A.225 (Effective January 1, 2025) is amended to read as
14 follows:

- 15 (1) (a) The term "employee" for purposes of this section means:
16 1. Any person, including an elected public official, who is regularly
17 employed by any department, office, board, agency, or branch of state
18 government; or by a public postsecondary educational institution; or by
19 any city, urban-county, charter county, county, or consolidated local
20 government, whose legislative body has opted to participate in the state-
21 sponsored health insurance program pursuant to KRS 79.080; and who
22 is either a contributing member to any one (1) of the retirement systems
23 administered by the state, including but not limited to the Kentucky
24 Retirement Systems, County Employees Retirement System, Kentucky
25 Teachers' Retirement System, the Legislators' Retirement Plan, or the
26 Judicial Retirement Plan; or is receiving a contractual contribution from
27 the state toward a retirement plan; or, in the case of a public

- 1 postsecondary education institution, is an individual participating in an
2 optional retirement plan authorized by KRS 161.567; or is eligible to
3 participate in a retirement plan established by an employer who ceases
4 participating in the Kentucky Employees Retirement System pursuant to
5 KRS 61.522 whose employees participated in the health insurance plans
6 administered by the Personnel Cabinet prior to the employer's effective
7 cessation date in the Kentucky Employees Retirement System;
- 8 2. Any certified or classified employee of a local board of education or a
9 public charter school as defined in KRS 160.1590;
- 10 3. Any elected member of a local board of education;
- 11 4. Any person who is a present or future recipient of a retirement
12 allowance from the Kentucky Retirement Systems, County Employees
13 Retirement System, Kentucky Teachers' Retirement System, the
14 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
15 Kentucky Community and Technical College System's optional
16 retirement plan authorized by KRS 161.567, except that a person who is
17 receiving a retirement allowance and who is age sixty-five (65) or older
18 shall not be included, with the exception of persons covered under KRS
19 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
20 employed pursuant to subparagraph 1. of this paragraph; and
- 21 5. Any eligible dependents and beneficiaries of participating employees
22 and retirees who are entitled to participate in the state-sponsored health
23 insurance program;
- 24 (b) The term "health benefit plan" for the purposes of this section means a health
25 benefit plan as defined in KRS 304.17A-005;
- 26 (c) The term "insurer" for the purposes of this section means an insurer as defined
27 in KRS 304.17A-005; and

- 1 (d) The term "managed care plan" for the purposes of this section means a
2 managed care plan as defined in KRS 304.17A-500.
- 3 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
4 recommendation of the secretary of the Personnel Cabinet, shall procure, in
5 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
6 from one (1) or more insurers authorized to do business in this state, a group
7 health benefit plan that may include but not be limited to health maintenance
8 organization (HMO), preferred provider organization (PPO), point of service
9 (POS), and exclusive provider organization (EPO) benefit plans
10 encompassing all or any class or classes of employees. With the exception of
11 employers governed by the provisions of KRS Chapters 16, 18A, and 151B,
12 all employers of any class of employees or former employees shall enter into
13 a contract with the Personnel Cabinet prior to including that group in the state
14 health insurance group. The contracts shall include but not be limited to
15 designating the entity responsible for filing any federal forms, adoption of
16 policies required for proper plan administration, acceptance of the contractual
17 provisions with health insurance carriers or third-party administrators, and
18 adoption of the payment and reimbursement methods necessary for efficient
19 administration of the health insurance program. Health insurance coverage
20 provided to state employees under this section shall, at a minimum, contain
21 the same benefits as provided under Kentucky Kare Standard as of January 1,
22 1994, and shall include a mail-order drug option as provided in subsection
23 (13) of this section. All employees and other persons for whom the health care
24 coverage is provided or made available shall annually be given an option to
25 elect health care coverage through a self-funded plan offered by the
26 Commonwealth or, if a self-funded plan is not available, from a list of
27 coverage options determined by the competitive bid process under the

1 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
2 during annual open enrollment.

3 (b) The policy or policies shall be approved by the commissioner of insurance
4 and may contain the provisions the commissioner of insurance approves,
5 whether or not otherwise permitted by the insurance laws.

6 (c) Any carrier bidding to offer health care coverage to employees shall agree to
7 provide coverage to all members of the state group, including active
8 employees and retirees and their eligible covered dependents and
9 beneficiaries, within the county or counties specified in its bid. Except as
10 provided in subsection (20) of this section, any carrier bidding to offer health
11 care coverage to employees shall also agree to rate all employees as a single
12 entity, except for those retirees whose former employers insure their active
13 employees outside the state-sponsored health insurance program and as
14 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

15 (d) Any carrier bidding to offer health care coverage to employees shall agree to
16 provide enrollment, claims, and utilization data to the Commonwealth in a
17 format specified by the Personnel Cabinet with the understanding that the data
18 shall be owned by the Commonwealth; to provide data in an electronic form
19 and within a time frame specified by the Personnel Cabinet; and to be subject
20 to penalties for noncompliance with data reporting requirements as specified
21 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
22 to protect the confidentiality of each individual employee; however,
23 confidentiality assertions shall not relieve a carrier from the requirement of
24 providing stipulated data to the Commonwealth.

25 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
26 for timely analysis of data received from carriers and, to the extent possible,
27 provide in the request-for-proposal specifics relating to data requirements,

1 electronic reporting, and penalties for noncompliance. The Commonwealth
2 shall own the enrollment, claims, and utilization data provided by each carrier
3 and shall develop methods to protect the confidentiality of the individual. The
4 Personnel Cabinet shall include in the October annual report submitted
5 pursuant to the provisions of KRS 18A.226 to the Governor, the General
6 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
7 financial stability of the program, which shall include but not be limited to
8 loss ratios, methods of risk adjustment, measurements of carrier quality of
9 service, prescription coverage and cost management, and statutorily required
10 mandates. If state self-insurance was available as a carrier option, the report
11 also shall provide a detailed financial analysis of the self-insurance fund
12 including but not limited to loss ratios, reserves, and reinsurance agreements.

13 (f) If any agency participating in the state-sponsored employee health insurance
14 program for its active employees terminates participation and there is a state
15 appropriation for the employer's contribution for active employees' health
16 insurance coverage, then neither the agency nor the employees shall receive
17 the state-funded contribution after termination from the state-sponsored
18 employee health insurance program.

19 (g) Any funds in flexible spending accounts that remain after all reimbursements
20 have been processed shall be transferred to the credit of the state-sponsored
21 health insurance plan's appropriation account.

22 (h) Each entity participating in the state-sponsored health insurance program shall
23 provide an amount at least equal to the state contribution rate for the employer
24 portion of the health insurance premium. For any participating entity that used
25 the state payroll system, the employer contribution amount shall be equal to
26 but not greater than the state contribution rate.

27 (3) The premiums may be paid by the policyholder:

- 1 (a) Wholly from funds contributed by the employee, by payroll deduction or
2 otherwise;
- 3 (b) Wholly from funds contributed by any department, board, agency, public
4 postsecondary education institution, or branch of state, city, urban-county,
5 charter county, county, or consolidated local government; or
- 6 (c) Partly from each, except that any premium due for health care coverage or
7 dental coverage, if any, in excess of the premium amount contributed by any
8 department, board, agency, postsecondary education institution, or branch of
9 state, city, urban-county, charter county, county, or consolidated local
10 government for any other health care coverage shall be paid by the employee.
- 11 (4) If an employee moves his or her place of residence or employment out of the
12 service area of an insurer offering a managed health care plan, under which he or
13 she has elected coverage, into either the service area of another managed health care
14 plan or into an area of the Commonwealth not within a managed health care plan
15 service area, the employee shall be given an option, at the time of the move or
16 transfer, to change his or her coverage to another health benefit plan.
- 17 (5) No payment of premium by any department, board, agency, public postsecondary
18 educational institution, or branch of state, city, urban-county, charter county,
19 county, or consolidated local government shall constitute compensation to an
20 insured employee for the purposes of any statute fixing or limiting the
21 compensation of such an employee. Any premium or other expense incurred by any
22 department, board, agency, public postsecondary educational institution, or branch
23 of state, city, urban-county, charter county, county, or consolidated local
24 government shall be considered a proper cost of administration.
- 25 (6) The policy or policies may contain the provisions with respect to the class or classes
26 of employees covered, amounts of insurance or coverage for designated classes or
27 groups of employees, policy options, terms of eligibility, and continuation of

- 1 insurance or coverage after retirement.
- 2 (7) Group rates under this section shall be made available to the disabled child of an
3 employee regardless of the child's age if the entire premium for the disabled child's
4 coverage is paid by the state employee. A child shall be considered disabled if he or
5 she has been determined to be eligible for federal Social Security disability benefits.
- 6 (8) The health care contract or contracts for employees shall be entered into for a
7 period of not less than one (1) year.
- 8 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
9 State Health Insurance Subscribers to advise the secretary or the secretary's
10 designee regarding the state-sponsored health insurance program for employees.
11 The secretary shall appoint, from a list of names submitted by appointing
12 authorities, members representing school districts from each of the seven (7)
13 Supreme Court districts, members representing state government from each of the
14 seven (7) Supreme Court districts, two (2) members representing retirees under age
15 sixty-five (65), one (1) member representing local health departments, two (2)
16 members representing the Kentucky Teachers' Retirement System, and three (3)
17 members at large. The secretary shall also appoint two (2) members from a list of
18 five (5) names submitted by the Kentucky Education Association, two (2) members
19 from a list of five (5) names submitted by the largest state employee organization of
20 nonschool state employees, two (2) members from a list of five (5) names submitted
21 by the Kentucky Association of Counties, two (2) members from a list of five (5)
22 names submitted by the Kentucky League of Cities, and two (2) members from a
23 list of names consisting of five (5) names submitted by each state employee
24 organization that has two thousand (2,000) or more members on state payroll
25 deduction. The advisory committee shall be appointed in January of each year and
26 shall meet quarterly.
- 27 (10) Notwithstanding any other provision of law to the contrary, the policy or policies

1 provided to employees pursuant to this section shall not provide coverage for
2 obtaining or performing an abortion, nor shall any state funds be used for the
3 purpose of obtaining or performing an abortion on behalf of employees or their
4 dependents.

5 (11) Interruption of an established treatment regime with maintenance drugs shall be
6 grounds for an insured to appeal a formulary change through the established appeal
7 procedures approved by the Department of Insurance, if the physician supervising
8 the treatment certifies that the change is not in the best interests of the patient.

9 (12) Any employee who is eligible for and elects to participate in the state health
10 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
11 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
12 state health insurance contribution toward health care coverage as a result of any
13 other employment for which there is a public employer contribution. This does not
14 preclude a retiree and an active employee spouse from using both contributions to
15 the extent needed for purchase of one (1) state sponsored health insurance policy
16 for that plan year.

17 (13) (a) The policies of health insurance coverage procured under subsection (2) of
18 this section shall include a mail-order drug option for maintenance drugs for
19 state employees. Maintenance drugs may be dispensed by mail order in
20 accordance with Kentucky law.

21 (b) A health insurer shall not discriminate against any retail pharmacy located
22 within the geographic coverage area of the health benefit plan and that meets
23 the terms and conditions for participation established by the insurer, including
24 price, dispensing fee, and copay requirements of a mail-order option. The
25 retail pharmacy shall not be required to dispense by mail.

26 (c) The mail-order option shall not permit the dispensing of a controlled
27 substance classified in Schedule II.

- 1 (14) The policy or policies provided to state employees or their dependents pursuant to
2 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
3 aid-related services for insured individuals under eighteen (18) years of age, subject
4 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
5 pursuant to KRS 304.17A-132.
- 6 (15) Any policy provided to state employees or their dependents pursuant to this section
7 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
8 consistent with KRS 304.17A-142.
- 9 (16) Any policy provided to state employees or their dependents pursuant to this section
10 shall provide coverage for obtaining amino acid-based elemental formula pursuant
11 to KRS 304.17A-258.
- 12 (17) If a state employee's residence and place of employment are in the same county,
13 and if the hospital located within that county does not offer surgical services,
14 intensive care services, obstetrical services, level II neonatal services, diagnostic
15 cardiac catheterization services, and magnetic resonance imaging services, the
16 employee may select a plan available in a contiguous county that does provide
17 those services, and the state contribution for the plan shall be the amount available
18 in the county where the plan selected is located.
- 19 (18) If a state employee's residence and place of employment are each located in
20 counties in which the hospitals do not offer surgical services, intensive care
21 services, obstetrical services, level II neonatal services, diagnostic cardiac
22 catheterization services, and magnetic resonance imaging services, the employee
23 may select a plan available in a county contiguous to the county of residence that
24 does provide those services, and the state contribution for the plan shall be the
25 amount available in the county where the plan selected is located.
- 26 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
27 in the best interests of the state group to allow any carrier bidding to offer health

1 care coverage under this section to submit bids that may vary county by county or
2 by larger geographic areas.

3 (20) Notwithstanding any other provision of this section, the bid for proposals for health
4 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
5 the statewide rating structure provided in calendar year 2003 and a bid scenario that
6 allows for a regional rating structure that allows carriers to submit bids that may
7 vary by region for a given product offering as described in this subsection:

8 (a) The regional rating bid scenario shall not include a request for bid on a
9 statewide option;

10 (b) The Personnel Cabinet shall divide the state into geographical regions which
11 shall be the same as the partnership regions designated by the Department for
12 Medicaid Services for purposes of the Kentucky Health Care Partnership
13 Program established pursuant to 907 KAR 1:705;

14 (c) The request for proposal shall require a carrier's bid to include every county
15 within the region or regions for which the bid is submitted and include but not
16 be restricted to a preferred provider organization (PPO) option;

17 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
18 carrier all of the counties included in its bid within the region. If the Personnel
19 Cabinet deems the bids submitted in accordance with this subsection to be in
20 the best interests of state employees in a region, the cabinet may award the
21 contract for that region to no more than two (2) carriers; and

22 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
23 other requirements or criteria in the request for proposal.

24 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
25 after July 12, 2006, to public employees pursuant to this section which provides
26 coverage for services rendered by a physician or osteopath duly licensed under KRS
27 Chapter 311 that are within the scope of practice of an optometrist duly licensed

1 under the provisions of KRS Chapter 320 shall provide the same payment of
2 coverage to optometrists as allowed for those services rendered by physicians or
3 osteopaths.

4 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
5 public employees pursuant to this section shall comply with:

- 6 (a) KRS 304.12-237;
7 (b) KRS 304.17A-270 and 304.17A-525;
8 (c) KRS 304.17A-600 to 304.17A-633;
9 (d) KRS 205.593;
10 (e) KRS 304.17A-700 to 304.17A-730;
11 (f) KRS 304.14-135;
12 (g) KRS 304.17A-580 and 304.17A-641;
13 (h) KRS 304.99-123;
14 (i) KRS 304.17A-138;
15 (j) KRS 304.17A-148;
16 (k) KRS 304.17A-163 and 304.17A-1631;
17 (l) KRS 304.17A-265;
18 (m) KRS 304.17A-261;
19 (n) KRS 304.17A-262;~~and~~
20 (o) **Section 1 of this Act;**
21 **(p) Section 2 of this Act; and**

22 **(q)** Administrative regulations promulgated pursuant to statutes listed in this
23 subsection.

24 ➔Section 5. KRS 164.2871 (Effective January 1, 2025) is amended to read as
25 follows:

26 (1) The governing board of each state postsecondary educational institution is
27 authorized to purchase liability insurance for the protection of the individual

1 members of the governing board, faculty, and staff of such institutions from liability
2 for acts and omissions committed in the course and scope of the individual's
3 employment or service. Each institution may purchase the type and amount of
4 liability coverage deemed to best serve the interest of such institution.

5 (2) All retirement annuity allowances accrued or accruing to any employee of a state
6 postsecondary educational institution through a retirement program sponsored by
7 the state postsecondary educational institution are hereby exempt from any state,
8 county, or municipal tax, and shall not be subject to execution, attachment,
9 garnishment, or any other process whatsoever, nor shall any assignment thereof be
10 enforceable in any court, ~~but~~ except retirement benefits accrued or accruing to any
11 employee of a state postsecondary educational institution through a retirement
12 program sponsored by the state postsecondary educational institution on or after
13 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
14 provided in KRS 141.010 and 141.0215.

15 (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for
16 members of governing boards, faculty and staff of institutions of higher education
17 in this state shall not be construed to be a waiver of sovereign immunity or any
18 other immunity or privilege.

19 (4) The governing board of each state postsecondary education institution is authorized
20 to provide a self-insured employer group health plan to its employees, which plan
21 shall:

22 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and

23 (b) Except as provided in subsection (5) of this section, be exempt from
24 conformity with Subtitle 17A of KRS Chapter 304.

25 (5) A self-insured employer group health plan provided by the governing board of a
26 state postsecondary education institution to its employees shall comply with:

27 (a) KRS 304.17A-163 and 304.17A-1631;

- 1 (b) KRS 304.17A-265;
- 2 (c) KRS 304.17A-261;~~and~~
- 3 (d) KRS 304.17A-262;
- 4 (e) Section 1 of this Act; and
- 5 (f) Section 2 of this Act.

6 ➔Section 6. KRS 194A.099 is amended to read as follows:

- 7 (1) The Division of Health Benefit Exchange within the Office of Data Analytics shall
- 8 administer the provisions of the Patient Protection and Affordable Care Act of
- 9 2010, Pub. L. No. 111-148.
- 10 (2) The Division of Health Benefit Exchange shall:
- 11 (a) Facilitate enrollment in health coverage and the purchase and sale of qualified
- 12 health plans in the individual market;
- 13 (b) Facilitate the ability of eligible individuals to receive premium tax credits and
- 14 cost-sharing reductions and enable eligible small businesses to receive tax
- 15 credits, in compliance with all applicable federal and state laws and
- 16 regulations;
- 17 (c) Oversee the consumer assistance programs of navigators, in-person assisters,
- 18 certified application counselors, and insurance agents as appropriate;
- 19 (d) At a minimum, carry out the functions and responsibilities required pursuant
- 20 to 42 U.S.C. sec. 18031 to implement and comply with federal regulations in
- 21 accordance with 42 U.S.C. sec. 18041;~~and~~
- 22 (e) Regularly consult with stakeholders in accordance with 45 C.F.R. sec.
- 23 155.130; and
- 24 (f) Comply with Section 1 of this Act.
- 25 (3) The Office of Data Analytics:
- 26 (a) May enter into contracts and other agreements with appropriate entities,
- 27 including but not limited to federal, state, and local agencies, as permitted

1 under 45 C.F.R. sec. 155.110, to the extent necessary to carry out the duties
 2 and responsibilities of the office ~~if, provided that~~ the agreements incorporate
 3 adequate protections with respect to the confidentiality of any information to
 4 be shared; ~~[-]~~

5 ~~(b)(4)~~ ~~{The office }~~ Shall pursue all available federal funding for the further
 6 development and operation of the Division of Health Benefit Exchange; ~~[-]~~

7 ~~(c)(5)~~ ~~{The Office of Health Data and Analytics }~~ Shall promulgate
 8 administrative regulations in accordance with KRS Chapter 13A to implement
 9 this section; and ~~[-]~~

10 ~~(d)(6)~~ ~~{The office }~~ Shall not establish procedures and rules that conflict with or
 11 prevent the application of the Patient Protection and Affordable Care Act of
 12 2010, Pub. L. No. 111-148.

13 ➔ SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO
 14 READ AS FOLLOWS:

15 **(1) As used in this section:**

16 **(a) "Eligible individual" means a woman who is:**

17 **1. Pregnant as a result of a sexual assault that has been established by:**

18 **a. An examination by a sexual assault nurse examiner as defined**
 19 **in KRS 314.011 or examination at a sexual assault examination**
 20 **facility as defined in KRS 216B.015 and reported as required in**
 21 **Section 20 of this Act; or**

22 **b. The filing of a criminal complaint with a law enforcement**
 23 **agency alleging conduct described in KRS 510.040, 510.050, or**
 24 **510.060 within three (3) months of the sexual assault; and**

25 **2. Eligible for coverage under a health benefit plan or on any exchange;**

26 **(b) "Exchange":**

27 **1. Means a governmental agency or nonprofit entity that makes qualified**

1 health plans, as defined in 42 U.S.C. sec. 18021, as amended,
2 available to qualified individuals and qualified employers; and

3 2. Includes:

4 a. An exchange serving the individual market for qualified
5 individuals; and

6 b. A small business health options program serving the small group
7 market for qualified employers; and

8 (c) "Health benefit plan" has the same meaning as in KRS 304.17A-005,
9 except that for purposes this section, the term includes:

10 1. Short-term limited-duration coverage; and

11 2. Student health insurance offered by a Kentucky-licensed insurer
12 under written contract with a university or college whose students it
13 proposes to insure.

14 (2) To the extent funding is available, premiums for coverage under a health benefit
15 plan or on any exchange shall not be charged to an eligible individual, and all
16 premiums, copayments, or coinsurance amounts shall be administered and paid
17 through the Division of Health Benefit Exchange within the Office of Data
18 Analytics.

19 ➔Section 8. KRS 205.522 is amended to read as follows:

20 (1) With respect to the administration and provision of Medicaid benefits pursuant to
21 this chapter, the Department for Medicaid Services, ~~and~~ any managed care
22 organization contracted to provide Medicaid benefits pursuant to this chapter, and
23 the state's medical assistance program shall be subject to, and comply with, the
24 following, as applicable:~~provisions of~~

25 (a) KRS 304.17A-163;~~and~~

26 (b) KRS 304.17A-1631;~~and~~

27 (c) KRS 304.17A-167;~~and~~

- 1 ~~(d) KRS 304.17A-235;~~
- 2 ~~(e) KRS 304.17A-257;~~
- 3 ~~(f) KRS 304.17A-259;~~
- 4 ~~(g) KRS 304.17A-263;~~
- 5 ~~(h) KRS 304.17A-515;~~
- 6 ~~(i) KRS 304.17A-580;~~
- 7 ~~(j) KRS 304.17A-600, 304.17A-603, and 304.17A-607;~~
- 8 ~~(k) KRS 304.17A-740 to 304.17A-743; and, as applicable~~
- 9 **(l) Section 2 of this Act.**

10 (2) A managed care organization contracted to provide Medicaid benefits pursuant to
 11 this chapter shall comply with the reporting requirements of KRS 304.17A-732.

12 ➔Section 9. KRS 205.592 is amended to read as follows:

13 **(1) Except as provided in subsection (2) of this section,** pregnant women, new mothers
 14 up to twelve (12) months postpartum, and children up to age one (1) shall be
 15 eligible for participation in the Kentucky Medical Assistance Program if:

16 ~~(a)(1)~~ They have family income up to but not exceeding one hundred and
 17 eighty-five percent (185%) of the nonfarm income official poverty guidelines
 18 as promulgated by the Department of Health and Human Services of the
 19 United States as revised annually; and

20 ~~(b)(2)~~ They are otherwise eligible for the program.

21 **(2) The percentage established in subsection (1)(a) of this section may be increased**
 22 **to the extent:**

23 **(a) Permitted under federal law; and**

24 **(b) Funding is available.**

25 ➔Section 10. KRS 205.6485 is amended to read as follows:

26 (1) **As used in this section, "KCHIP" means the Kentucky Children's Health**
 27 **Insurance Program.**

1 **(2)** The Cabinet for Health and Family Services shall:

2 **(a)** Prepare a state child health plan, **known as KCHIP**, meeting the requirements
3 of Title XXI of the Federal Social Security Act, for submission to the
4 Secretary of the United States Department of Health and Human Services
5 within such time as will permit the state to receive the maximum amounts of
6 federal matching funds available under Title XXI; **and** ~~[- The cabinet shall, -]~~

7 **(b)** By administrative regulation promulgated in accordance with KRS Chapter
8 13A, establish the following:

9 ~~1. [(a)]~~ The eligibility criteria for children covered by **KCHIP, which**
10 **shall include a provision that** ~~[- the Kentucky Children's Health Insurance~~
11 ~~Program. However, -]~~ no person eligible for services under Title XIX of
12 the Social Security Act, 42 U.S.C. **secs.** 1396 to 1396v, as amended,
13 shall be eligible for services under **KCHIP**, ~~[- the Kentucky Children's~~
14 ~~Health Insurance Program]~~ except to the extent that Title XIX coverage
15 is expanded by KRS 205.6481 to 205.6495 and KRS 304.17A-340;

16 ~~2. [(b)]~~ The schedule of benefits to be covered by **KCHIP** ~~[- the Kentucky~~
17 ~~Children's Health Insurance Program]~~, which shall: ~~[- include preventive~~
18 ~~services, vision services including glasses, and dental services including~~
19 ~~at least sealants, extractions, and fillings, and which shall]~~

20 **a.** Be at least equivalent to one (1) of the following:

21 ~~i. [1.]~~ The standard Blue Cross/Blue Shield preferred provider
22 option under the Federal Employees Health Benefit Plan
23 established by **5** U.S.C. sec. 8903(1);

24 ~~ii. [2.]~~ A mid-range health benefit coverage plan that is offered and
25 generally available to state employees; or

26 ~~iii. [3.]~~ Health insurance coverage offered by a health
27 maintenance organization that has the largest insured

1 commercial, non-Medicaid enrollment of covered lives in the
2 state; and

3 **b. Comply with subsection (6) of this section;**

4 ~~3.[(e)]~~ The premium contribution per family ~~for[of]~~ health insurance
5 coverage available under the **KCHIP, which**~~[Kentucky Children's~~
6 ~~Health Insurance Program with provisions for the payment of premium~~
7 ~~contributions by families of children eligible for coverage by the~~
8 ~~program based upon a sliding scale relating to family income. Premium~~
9 ~~contributions]~~ shall be based:

10 **a.** On a six (6) month period; and

11 **b. Upon a sliding scale relating to family income** not to exceed:

12 ~~i.[1.]~~ Ten dollars (\$10), to be paid by a family with income
13 between one hundred percent (100%) to one hundred thirty-
14 three percent (133%) of the federal poverty level;

15 ~~ii.[2.]~~ Twenty dollars (\$20), to be paid by a family with income
16 between one hundred thirty-four percent (134%) to one
17 hundred forty-nine percent (149%) of the federal poverty
18 level; and

19 ~~iii.[3.]~~ One hundred twenty dollars (\$120), to be paid by a
20 family with income between one hundred fifty percent
21 (150%) to two hundred percent (200%) of the federal
22 poverty level, and which may be made on a partial payment
23 plan of twenty dollars (\$20) per month or sixty dollars (\$60)
24 per quarter;

25 ~~4.[(d)]~~ There shall be no copayments for services provided under
26 **KCHIP**~~[the Kentucky Children's Health Insurance Program]; and~~

27 ~~5.[(e)]~~ **a.** The criteria for health services providers and insurers

1 wishing to contract with the Commonwealth to provide ~~the~~
2 ~~children's health insurance~~ coverage under KCHIP.

3 **b.** ~~However,~~ The cabinet shall provide, in any contracting process
4 for coverage of ~~the~~ preventive services ~~health insurance~~
5 ~~program~~, the opportunity for a public health department to bid on
6 preventive health services to eligible children within the public
7 health department's service area. A public health department shall
8 not be disqualified from bidding because the department does not
9 currently offer all the services required by ~~paragraph (b) of~~ this
10 section ~~subsection~~. The criteria shall be set forth in administrative
11 regulations under KRS Chapter 13A and shall maximize
12 competition among the providers and insurers. The ~~Cabinet for~~
13 Finance and Administration Cabinet shall provide oversight over
14 contracting policies and procedures to assure that the number of
15 applicants for contracts is maximized.

16 ~~(3)(2)~~ Within twelve (12) months of federal approval of the state's Title XXI child
17 health plan, the Cabinet for Health and Family Services shall assure that a KCHIP
18 program is available to all eligible children in all regions of the state. If necessary,
19 in order to meet this assurance, the cabinet shall institute its own program.

20 ~~(4)(3)~~ KCHIP recipients shall have direct access without a referral from any
21 gatekeeper primary care provider to dentists for covered primary dental services
22 and to optometrists and ophthalmologists for covered primary eye and vision
23 services.

24 ~~(5)(4)~~ KCHIP ~~The Kentucky Children's Health Insurance Plan~~ shall comply with
25 KRS 304.17A-163 and 304.17A-1631.

26 **(6) The schedule of benefits required under subsection (2)(b)2. of this section shall**
27 **include:**

- 1 (a) Preventive services;
2 (b) Vision services, including glasses;
3 (c) Dental services, including sealants, extractions, and fillings; and
4 (d) The coverage required under Section 2 of this Act.

5 ➔Section 11. KRS 164.2847 is amended to read as follows:

6 (1) Tuition and mandatory student fees for any undergraduate or graduate program of
7 any Kentucky public postsecondary institution, including all four (4) year
8 universities and colleges and institutions of the Kentucky Community and
9 Technical College System, shall be waived for a Kentucky foster or adopted child
10 who is a full-time or part-time student if the student meets all entrance requirements
11 and maintains academic eligibility while enrolled at the postsecondary institution,
12 and if:

13 (a) The student's family receives state-funded adoption assistance under KRS
14 199.555;

15 (b) The student is currently committed to the Cabinet for Health and Family
16 Services under KRS 610.010(5) and placed in a family foster home or is
17 placed in accordance with KRS 605.090(3);

18 (c) The student is in an independent living program and the placement is funded
19 by the Cabinet for Health and Family Services;

20 (d) The student who is an adopted child was in the permanent legal custody of
21 and placed for adoption by the Cabinet for Health and Family Services. A
22 student who meets the eligibility criteria of this paragraph and lives outside of
23 Kentucky at the time of application to a Kentucky postsecondary institution
24 may apply for the waiver up to the amount of tuition for a Kentucky resident;
25 or

26 (e) The Cabinet for Health and Family Services was the student's legal custodian
27 on his or her eighteenth birthday.

1 (2) Tuition and mandatory student fees for any undergraduate program of any
2 Kentucky public postsecondary institution, including all four (4) year universities
3 and colleges and institutions of the Kentucky Community and Technical College
4 System, shall be waived for a Department of Juvenile Justice foster child who is a
5 full-time or part-time student if the student meets all entrance requirements and
6 maintains academic eligibility while enrolled at the postsecondary institution and
7 obtains a recommendation for participation from an official from the Department of
8 Juvenile Justice, and if:

9 (a) The student has not been sentenced to the Department of Juvenile Justice
10 under KRS Chapter 640;

11 (b) The student has been committed to the Department of Juvenile Justice for a
12 period of at least twelve (12) months;

13 (c) The student is in an independent living program and placement is funded by
14 the Department of Juvenile Justice;

15 (d) The parental rights of the student's biological parents have been terminated; or

16 (e) The student was committed to the Cabinet for Health and Family Services
17 prior to a commitment to the Department of Juvenile Justice.

18 **(3) Tuition and mandatory fees for any undergraduate or graduate program of any**
19 **Kentucky postsecondary institution, including all four (4) year universities and**
20 **colleges and institutions of the Kentucky Community and Technical College**
21 **System, shall be waived for a child conceived and born as a result of sexual**
22 **assault as defined in Section 13 of this Act who is a full-time or part-time student**
23 **if the student meets all entrance requirements and maintains academic eligibility**
24 **while enrolled in the postsecondary institution.**

25 ~~(4)~~[(3)] Upon request of the postsecondary institution, the:

26 (a) Cabinet for Health and Family Services shall confirm the eligibility status
27 under subsection (1) of this section **of the student seeking to participate in**

1 the waiver program;~~and the~~

2 (b) Department of Juvenile Justice shall confirm the eligibility status and
3 recommendations under subsection (2) of this section of the student seeking to
4 participate in the waiver program; and

5 (c) Department of Kentucky State Police shall confirm the eligibility status
6 under subsection (3) of this section of the student seeking to participate in
7 the waiver program.

8 Release of this information shall not constitute a breach of confidentiality required
9 by KRS 199.570, 610.320, or 620.050.

10 (5)~~(4)~~ The student shall complete the Free Application for Federal Student Aid to
11 determine the level of need and eligibility for state and federal financial aid
12 programs. If the sum of the tuition waiver plus other student financial assistance,
13 except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from
14 all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C.
15 sec. 10871l, the tuition waiver shall be reduced by the amount exceeding the total
16 cost of attendance.

17 (6)~~(5)~~ Except when extended in accordance with subsection (7)~~(6)~~ of this section,
18 the student shall be eligible for the tuition waiver:

19 (a) For entrance to the institution for a period of no more than four (4) years after
20 the date of graduation from high school or obtaining a high school
21 equivalency diploma; and

22 (b) For one hundred fifty (150) consecutive or nonconsecutive credit hours
23 earned, after first admittance to any Kentucky institution if satisfactory
24 progress is achieved or maintained up to age twenty-eight (28).

25 (7)~~(6)~~ The expiration of a student's eligibility under subsection (6)~~(5)~~(a) of this
26 section shall be extended by the number of academic terms the institution
27 determines the student was unable to enroll for or complete due to serving:

- 1 (a) On active duty status in the United States Armed Forces;
- 2 (b) As an officer in the Commissioned Corps of the United States Public Health
3 Service; or
- 4 (c) On active service in the Peace Corps Act or the Americorps.

5 The original age limitation under subsection ~~(6)~~~~(5)~~(b) of this section shall be
6 extended by the total number of years during which the student was on active duty
7 status. The number of months served on active duty status shall be rounded up to
8 the next higher year to determine the maximum length of eligibility extension
9 allowed.

10 ~~(8)~~~~(7)~~ The Council on Postsecondary Education shall report nonidentifying data on
11 graduation rates of students participating in the tuition waiver program by
12 November 30 each year to the Legislative Research Commission.

13 ~~(9)~~~~(8)~~ Nothing in this section shall be construed to:

- 14 (a) Guarantee acceptance of or entrance into any postsecondary institution for a
15 foster or adopted child, **or a child under subsection (3) of this section;**
- 16 (b) Limit the participation of a foster or adopted student, **or a student under**
17 **subsection (3) of this section,** in any other program of financial assistance for
18 postsecondary education;
- 19 (c) Require any postsecondary institution to waive costs or fees relating to room
20 and board; or
- 21 (d) Restrict any postsecondary institution, the Department of Juvenile Justice, or
22 the Cabinet for Health and Family Services from accessing other sources of
23 financial assistance, except loans, that may be available to a foster or adopted
24 student, **or a student under subsection (3) of this section.**

25 ➔Section 12. KRS 164.2849 is amended to read as follows:

26 **(1)** The General Assembly of the Commonwealth of Kentucky finds and declares that it
27 is in the best interests of the Commonwealth to encourage and support adults to

1 adopt and provide foster care for children in the custody of the state and under
2 other specified circumstances.

3 (2) The General Assembly further finds and declares that it is in the best interests of
4 the Commonwealth to protect the unborn and to support the birth of a child
5 conceived as a result of sexual assault established by the filing of a criminal
6 complaint by the victim with a law enforcement agency alleging conduct
7 described in KRS 510.040, 510.050, or 510.060 within three (3) months of the
8 assault, or by an examination by a sexual assault nurse examiner as defined in
9 KRS 314.011 or examination at a sexual assault examination facility as defined
10 in KRS 216B.015 and reported to law enforcement as required under Section 20
11 of this Act.

12 (3) The General Assembly recognizes that a child whose care, custody, and control has
13 been assumed by the Commonwealth as evidenced by termination of the rights of
14 the biological parents and adoption from state custody or a custodial commitment to
15 the Cabinet for Health and Family Services or the Department of Juvenile Justice is
16 a special ward of the state and faces particular challenges in pursuing higher
17 education.

18 (4) The General Assembly recognizes that a child who was conceived and delivered
19 as a result of sexual assault also faces particular challenges in pursuing higher
20 education.

21 (5) Because it is the intent of the General Assembly to support adoption, foster
22 parenting, protection of the unborn, and educational advancement, the purpose of
23 KRS 164.2847 is to provide postsecondary education advancement opportunity for
24 foster and adopted children who are or were wards of the state, or for children who
25 were conceived and born as a result of sexual assault as described in subsection
26 (2) of this section.

27 ➔Section 13. KRS 199.011 is amended to read as follows:

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

- 2 (1) "Adoption worker" means an employee of the cabinet so designated by the
3 secretary for health and family services, a social worker employed by a county or
4 city who has been approved by the cabinet to handle, under its supervision,
5 adoption placement services to children, or a social worker employed by or under
6 contract to a child-placing adoption agency;
- 7 (2) "Adult adopted person" means any adopted person who is twenty-one (21) years of
8 age or older;
- 9 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 10 (4) "Child" means any person who has not reached his eighteenth birthday;
- 11 (5) **"Child conceived and born as a result of sexual assault" means any child**
12 **conceived and delivered as a result of sexual assault established by an**
13 **examination by a sexual assault nurse examiner as defined in KRS 314.011 or**
14 **examination at a sexual assault examination facility as defined in KRS 216B.015**
15 **and reported as required in Section 20 of this Act, or the filing of a criminal**
16 **complaint by the victim with a law enforcement agency alleging conduct**
17 **described in KRS 510.040, 510.050, or 510.060 within three (3) months of the**
18 **assault;**
- 19 ~~(6)~~ "Child-caring facility" means any institution or group home, including institutions
20 and group homes that are publicly operated, providing residential care on a twenty-
21 four (24) hour basis to children, not related by blood, adoption, or marriage to the
22 person maintaining the facility, other than an institution or group home certified by
23 an appropriate agency as operated primarily for educational or medical purposes, or
24 a residential program operated or contracted by the Department of Juvenile Justice
25 that maintains accreditation, or obtains accreditation within two (2) years of
26 opening from a nationally recognized accrediting organization;
- 27 ~~(7)~~~~(6)~~ "Child-placing agency" means any agency licensed by the cabinet, which

1 supervises the placement of children in foster family homes or child-caring
2 facilities, or which places children for adoption;

3 ~~(8)~~~~(7)~~ "Department" means the Department for Community Based Services;

4 ~~(9)~~~~(8)~~ "Family rehabilitation home" means a child-caring facility for appropriate
5 families and comprising not more than twelve (12) children and two (2) staff
6 persons;

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

12 ~~(11)~~~~(10)~~ "Foster family home" means a private home in which children are placed for
13 foster family care under supervision of the cabinet or of a licensed child-placing
14 agency;

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

20 ~~(13)~~~~(12)~~ "Institution" means a child-caring facility providing care or maintenance for
21 nine (9) or more children;

22 ~~(14)~~~~(13)~~ "Placement services" means those social services customarily provided by a
23 licensed child-placing or a public agency, which are necessary for the arrangement
24 and placement of children in foster family homes, child-placing facilities, or
25 adoptive homes. Placement services are provided through a licensed child-placing
26 or a public agency for children who cannot be cared for by their biological parents
27 and who need and can benefit from new and permanent family ties established

1 through legal adoption. Licensed child-placing agencies and public agencies have a
2 responsibility to act in the best interests of children, biological parents, and adoptive
3 parents by providing social services to all the parties involved in an adoption;

4 ~~(15)~~~~(14)~~ "Rap back system" means a system that enables an authorized entity to
5 receive ongoing status notifications of any criminal history from the Department of
6 Kentucky State Police or the Federal Bureau of Investigation reported on an
7 individual whose fingerprints are registered in the system, upon approval and
8 implementation of the system;

9 ~~(16)~~~~(15)~~ "Reasonable and prudent parent standard" has the same meaning as in 42
10 U.S.C. sec. 675(10);

11 ~~(17)~~~~(16)~~ "Secretary" means the secretary for health and family services; and

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

- 21 (a) Date, time, and place of the execution of the consent;
- 22 (b) Name of the child, if any, to be adopted, and the date and place of the child's
23 birth;
- 24 (c) Consenting person's relationship to the child;
- 25 (d) Identity of the proposed adoptive parents or a statement that the consenting
26 person does not desire to know the identification of the proposed adoptive
27 parents;

- 1 (e) 1. A statement that the consenting person understands that the consent will
2 be final and irrevocable under this paragraph unless withdrawn under
3 this paragraph.
- 4 2. If placement approval by the secretary is required, the voluntary and
5 informed consent shall become final and irrevocable seventy-two (72)
6 hours after the execution of the voluntary and informed consent. This
7 consent may be withdrawn only by written notification sent to the
8 proposed adoptive parent or the attorney for the proposed adoptive
9 parent on or before the expiration of the seventy-two (72) hours by
10 certified or registered mail and also by first-class mail.
- 11 3. If placement approval by the secretary is not required, the voluntary and
12 informed consent shall become final and irrevocable seventy-two (72)
13 hours after the execution of the voluntary and informed consent. This
14 consent may be withdrawn only by written notification sent to the
15 proposed adoptive parent or the attorney for the proposed adoptive
16 parent on or before the expiration of the seventy-two (72) hours by
17 certified or registered mail and also by first-class mail;
- 18 (f) Disposition of the child if the adoption is not adjudged;
- 19 (g) A statement that the consenting person has received a completed and signed
20 copy of the consent at the time of the execution of the consent;
- 21 (h) Name and address of the person who prepared the consent, name and address
22 of the person who reviewed and explained the consent to the consenting
23 person, and a verified statement from the consenting person that the consent
24 has been reviewed with and fully explained to the consenting person; and
- 25 (i) Total amount of the consenting person's legal fees, if any, for any purpose
26 related to the execution of the consent and the source of payment of the legal
27 fees.

1 ➔Section 14. KRS 199.473 is amended to read as follows:

- 2 (1) All persons other than a child-placing agency or institution, the department, or
3 persons excepted by KRS 199.470(4) who wish to place or receive a child shall
4 make written application to the secretary for permission to place or receive a child.
- 5 (2) Prior to the approval of an application to place or receive a child, the fee required
6 pursuant to subsection (13) of this section shall be paid and a home study shall be
7 completed. The purpose of the home study shall be to review the background of the
8 applicant and determine the suitability of the applicant to receive a child, taking into
9 account at all times the best interest of the child for whom application to receive has
10 been made.
- 11 (3) (a) The home study shall be made in accordance with administrative regulations
12 promulgated by the cabinet in accordance with KRS Chapter 13A.
- 13 (b) The cabinet shall conduct the home study for an applicant whose total gross
14 income is equal to or less than two hundred fifty percent (250%) of the federal
15 poverty level guidelines issued each year by the federal government, unless
16 the applicant submits a written request for the home study to be conducted by
17 a licensed child-placing agency or institution. Upon request, the cabinet shall
18 make information available to an applicant who does not meet the
19 requirements of this paragraph to assist the applicant in obtaining a home
20 study from a licensed child-placing agency approved to provide adoption
21 services.
- 22 (c) A licensed child-placing agency approved to provide adoption services shall
23 conduct the home study for an applicant whose gross total income is more
24 than two hundred fifty percent (250%) of the federal poverty level guidelines
25 issued each year by the federal government.
- 26 (d) Calculation of family size for this subsection shall include each child
27 requested to be adopted.

- 1 (e) The portion of the home study pertaining to the home and family background
2 shall be valid for one (1) year following the date of its completion by an
3 adoption worker.
- 4 (4) The adoption worker making the home study shall make a finding in writing
5 recommending either that the application be granted or that the application be
6 denied. The recommendation of the adoption worker shall then be reviewed by the
7 secretary.
- 8 (5) Based on the report and recommendation of the adoption worker making the home
9 study, the secretary shall grant or refuse permission for the applicant to place or
10 receive a child as early as practicable, but, in any case, the decision shall be made
11 within sixty (60) days after the receipt of the application. In reaching a decision, the
12 secretary shall be guided by the ability of the persons wishing to receive the child to
13 give the child a suitable home, and shall at all times consider the best interest of the
14 child from a financial, medical, psychological, and psychiatric standpoint.
- 15 (6) If the application is refused, the secretary shall in general terms furnish in writing
16 the reasons for his or her refusal.
- 17 (7) Any person who seeks temporary custody of a child prior to the secretary's ruling
18 on an application for adoption shall file a petition seeking temporary custody, with
19 a notice of intent to adopt, with the Circuit Court that will have jurisdiction of the
20 adoption proceedings. The clerk of the court shall send a notice of the filing of the
21 petition to the cabinet. A hearing on the petition shall occur no later than seventy-
22 two (72) hours after the filing of the petition, excluding weekends and holidays.
23 Proceedings under this subsection shall be incorporated into the court's adoption
24 file. If the adoption is not finalized within six (6) months of the filing of the petition
25 and notice of intent, the court shall conduct a hearing on the status and custody of
26 the child.
- 27 (8) Upon a finding by the Circuit Court that the child should be placed prior to the

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

16 (9) In any case where the cabinet refuses to approve the placement of a child for
17 adoption when requested by the parent or parents of the child, or refuses the request
18 of any person or persons that a child be placed with that person or those persons for
19 adoption, the decision of the secretary in so refusing shall be final unless within ten
20 (10) days after notice of refusal, the biological or proposed adopting parent or
21 parents shall appeal to the Circuit Court of the county in which the adoption is
22 proposed. No placement shall be disapproved on the basis of the religious, ethnic,
23 racial, or interfaith background of the adoptive applicant, if the placement is made
24 with the consent of the parent.

25 (10) The cabinet may refuse to approve the placement of a child for adoption if the
26 child's custodial parent is unwilling for the child to be placed for adoption with the
27 proposed adoptive family. The cabinet may approve or deny the placement, in spite

1 of the fact that the custodial parent or parents are unwilling to be interviewed by the
2 cabinet or other approving entity, or if, after diligent efforts have been made, the
3 adoption worker is unable to locate or interview the custodial parent or parents. The
4 cabinet shall be made a party defendant to the appeal. In the hearing of an appeal,
5 the court shall review the findings of the secretary and shall determine if the
6 secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse
7 of discretion.

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

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

23 (13) The secretary of the Cabinet for Health and Family Services shall be paid a
24 nonrefundable fee of two hundred dollars (\$200) upon the filing of the written
25 application for permission to place or receive a child. Payment shall be made by
26 certified or cashier's check only. All funds collected under this section shall be
27 deposited in a restricted account, which is hereby created, for the purpose of

1 subsidizing an adoptive parent for suitable care of a special-needs child as
2 authorized in KRS 199.555. **The fee required under this subsection shall not be**
3 **required for an application to place or receive a child that was conceived and**
4 **born as a result of sexual assault.**

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

9 ➔Section 15. KRS 199.502 is amended to read as follows:

10 (1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted
11 without the consent of the biological living parents of a child if it is pleaded and
12 proved as part of the adoption proceeding that any of the following conditions exist
13 with respect to the child:

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

16 (b) That the parent had inflicted or allowed to be inflicted upon the child, by other
17 than accidental means, serious physical injury;

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

21 (d) That the parent has been convicted of:

22 **1.** A felony that involved the infliction of serious physical injury to a child
23 named in the present adoption proceeding; **or**

24 **2.** **Any conduct prohibited as any degree of rape, sexual abuse, or sexual**
25 **misconduct under KRS Chapter 510 that resulted in the birth of the**
26 **child named in the present adoption proceeding;**

27 (e) That the parent, for a period of not less than six (6) months, has continuously

1 or repeatedly failed or refused to provide or has been substantially incapable
2 of providing essential parental care and protection for the child, and that there
3 is no reasonable expectation of improvement in parental care and protection,
4 considering the age of the child;

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

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

13 (h) That:

- 14 1. The parent's parental rights to another child have been involuntarily
15 terminated;
- 16 2. The child named in the present adoption proceeding was born
17 subsequent to or during the pendency of the previous termination; and
- 18 3. The condition or factor which was the basis for the previous termination
19 finding has not been corrected;

20 (i) That the parent has been convicted in a criminal proceeding of having caused
21 or contributed to the death of another child as a result of physical or sexual
22 abuse or neglect; or

23 (j) That the parent is a putative father, as defined in KRS 199.503, who fails to
24 register as the minor's putative father with the putative father registry
25 established under KRS 199.503 or the court finds, after proper service of
26 notice and hearing, that:

- 27 1. The putative father is not the father of the minor;

- 1 2. The putative father has willfully abandoned or willfully failed to care for
2 and support the minor; or
- 3 3. The putative father has willfully abandoned the mother of the minor
4 during her pregnancy and up to the time of her surrender of the minor,
5 or the minor's placement in the home of the petitioner, whichever occurs
6 first.

7 (2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
8 findings of fact, conclusions of law, and a decision either:

- 9 (a) Granting the adoption without the biological parent's consent; or
- 10 (b) Dismissing the adoption petition, and stating whether the child shall be
11 returned to the biological parent or the child's custody granted to the state,
12 another agency, or the petitioner.

13 (3) A biological living parent has the right to legal representation in an adoption
14 wherein he or she does not consent. The Circuit Court shall determine if a
15 biological living parent is indigent and, therefore, entitled to counsel pursuant to
16 KRS Chapter 31. If the Circuit Court so finds, the Circuit Court shall inform the
17 indigent parent; and, upon request, if it appears reasonably necessary in the interest
18 of justice, the Circuit Court shall appoint an attorney to represent the biological
19 living parent pursuant to KRS Chapter 31 to be provided or paid for by:

20 (a) The petitioner, a fee to be set by the court and not to exceed five hundred
21 dollars (\$500);~~or~~

22 (b) Except as provided in paragraph (c) of this subsection, the Finance and
23 Administration Cabinet if the petitioner is a blood relative or fictive kin as
24 established in KRS 199.470(4)(a), a fee to be set by the court and not to
25 exceed five hundred dollars (\$500); and

26 (c) A biological living parent described in subsection (1)(d) of this section shall
27 not be eligible for any payment under this subsection related to legal

1 representation.

2 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) As used in this section, "nonrecurring adoption expenses" means those expenses
5 which are incurred in the legal adoption of a child conceived and born as a result
6 of sexual assault for which parents are ultimately responsible which include
7 reasonable and necessary adoption fees, court costs, attorney fees, and other
8 expenses which are directly related to the adoption of a child conceived and born
9 as a result of sexual assault and which are not incurred in violation of state or
10 federal law.

11 (2) Any person who meets the requirements of KRS 199.470 and who seeks to adopt a
12 child conceived and born as a result of sexual assault that is placed for adoption
13 by the cabinet, by an agency licensed by the cabinet, or with written approval by
14 the secretary of the cabinet, may receive the payment of nonrecurring adoption
15 expenses from state funds.

16 (3) Any agreement for the payments of state funds under this section shall be made
17 prior to the adoption of the child.

18 (4) The payments shall be out of funds appropriated to the cabinet and shall not
19 exceed the limit established by the secretary for health and family services in KRS
20 199.555.

21 (5) The cabinet shall establish criteria to be followed for payments under this section
22 and shall promulgate the criteria by administrative regulation in accordance with
23 KRS Chapter 13A.

24 ➔Section 17. KRS 199.894 is amended to read as follows:

25 As used in KRS 199.892 to 199.896, unless the context otherwise requires:

26 (1) "Cabinet" means the Cabinet for Health and Family Services;

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

1 (3) "Child Care and Development Fund" has the same meaning as in 45 C.F.R. sec.
 2 98.2;

3 (4) "Child Care Assistance Program" means the child care subsidy program
 4 established in Section 18 of this Act;

5 (5) "Child-care center" means any child-care center that provides full- or part-time
 6 care, day or night, to four (4) or more children in a nonresidential setting who are
 7 not the children, grandchildren, nieces, nephews, or children in legal custody of the
 8 operator. "Child-care center" shall not include any child-care facility operated by a
 9 religious organization while religious services are being conducted, or a youth
 10 development agency. For the purposes of this section, "youth development agency"
 11 means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which
 12 operates continuously throughout the year as an outside-school-hours center for
 13 youth who are six (6) years of age or older, and for which there are no fee or
 14 scheduled-care arrangements with the parent or guardian of the youth served;

15 ~~(6)~~~~(4)~~ "Department" means the Department for Community Based Services; and

16 ~~(7)~~~~(5)~~ "Family child-care home" means a private home that is the primary residence
 17 of an individual who provides full or part-time care day or night for six (6) or fewer
 18 children who are not the children, siblings, stepchildren, grandchildren, nieces,
 19 nephews, or children in legal custody of the provider.

20 ➔SECTION 18. A NEW SECTION OF KRS 199.892 TO 199.8996 IS
 21 CREATED TO READ AS FOLLOWS:

22 (1) The Child Care Assistance Program is hereby established within the cabinet.
 23 Except as may be prohibited by federal law, the Child Care Assistance Program
 24 shall utilize federal Child Care and Development Fund block grant funds to
 25 provide an eligible program participant with financial support to find and afford
 26 quality child care.

27 (2) An eligible program participant shall be eligible for child care assistance for a

1 child under subsection (1) of this section from birth to the age of one (1) year.

2 (3) In administering the Child Care Assistance Program, the cabinet shall:

3 (a) Establish a minimum reimbursement rate for participating child care
4 providers which shall not be less than eighty-five percent (85%) of the local
5 market rate for child care providers; and

6 (b) Prohibit participating child care providers from charging overages to
7 eligible program participants.

8 (4) For purposes of this section, "eligible program participant" means an individual
9 who conceived and delivered the child as a result of sexual assault established by
10 an examination by a sexual assault nurse examiner as defined in KRS 314.011 or
11 examination at a sexual assault examination facility as defined in KRS 216B.015,
12 and reported as required in Section 20 of this Act, or the filing of a criminal
13 complaint by the individual with a law enforcement agency alleging conduct
14 described in KRS 510.040, 510.050, or 510.060 within three (3) months of the
15 assault.

16 (5) The cabinet may promulgate regulations in accordance with KRS Chapter 13A
17 necessary to carry out the provisions of this section.

18 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
19 READ AS FOLLOWS:

20 (1) The Cabinet for Health and Family Services shall develop, produce, and
21 disseminate written materials providing information on benefits and programs
22 available to a victim of sexual assault that has been reported as required in
23 Sections 7, 12, and 20 of this Act who has conceived a child as a result of the
24 sexual assault, and benefits and programs available to a child conceived and born
25 as a result of sexual assault and how to access those benefits.

26 (2) The cabinet may consult or contract with nonprofit organizations to develop and
27 produce the materials required by this section and shall make the materials

1 *available on its website and in print form for distribution to victims.*

2 ➔Section 20. KRS 216B.400 is amended to read as follows:

- 3 (1) Where a person has been determined to be in need of emergency care by any person
4 with admitting authority, no such person shall be denied admission by reason only
5 of his or her inability to pay for services to be rendered by the hospital.
- 6 (2) Every hospital of this state which offers emergency services shall provide that a
7 physician, a sexual assault nurse examiner, who shall be a registered nurse licensed
8 in the Commonwealth and credentialed by the Kentucky Board of Nursing as
9 provided under KRS 314.142, or another qualified medical professional, as defined
10 by administrative regulation promulgated by the Justice and Public Safety Cabinet
11 in consultation with the Sexual Assault Response Team Advisory Committee as
12 defined in KRS 403.707, is available on call twenty-four (24) hours each day for the
13 examinations of persons seeking treatment as victims of sexual offenses as defined
14 by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120,
15 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.
- 16 (3) An examination provided in accordance with this section of a victim of a sexual
17 offense may be performed in a sexual assault examination facility as defined in
18 KRS 216B.015. An examination under this section shall apply only to an
19 examination of a victim.
- 20 (4) The physician, sexual assault nurse examiner, or other qualified medical
21 professional, acting under a statewide medical forensic protocol which shall be
22 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
23 Assault Response Team Advisory Committee as defined in KRS 403.707, and
24 promulgated by the secretary of justice and public safety pursuant to KRS Chapter
25 13A shall, upon the request of any peace officer or prosecuting attorney, and with
26 the consent of the victim, or upon the request of the victim, examine such person
27 for the purposes of providing basic medical care relating to the incident and

1 gathering samples that may be used as physical evidence. This examination shall
2 include but not be limited to:

3 (a) Basic treatment and sample gathering services; and

4 (b) Laboratory tests, as appropriate.

5 (5) (a) Each victim shall be informed of available services for treatment of sexually
6 transmitted infections, pregnancy, and other medical and psychiatric
7 problems. Pregnancy counseling shall not include abortion counseling or
8 referral information; and

9 (b) Each victim shall be informed of available counseling services that can be
10 provided by sexual assault counseling specialists.

11 (6) Each victim shall be informed of available crisis intervention or other mental health
12 services provided by regional rape crisis centers providing services to victims of
13 sexual assault.

14 (7) Each victim shall be informed of other services and benefits that may be available
15 to:

16 (a) Victims of sexual assault relating to any pregnancy resulting from the
17 sexual assault; and

18 (b) Any child conceived and born as a result of the sexual assault.

19 ~~(8)(7)~~ Notwithstanding any other provision of law, a minor may consent to
20 examination under this section. This consent is not subject to disaffirmance because
21 of minority, and consent of the parents or guardians of the minor is not required for
22 the examination.

23 ~~(9)(8)~~ (a) The examinations provided in accordance with this section shall be paid
24 for by the Crime Victims Compensation Board at a rate to be determined by
25 the administrative regulation promulgated by the board after consultation with
26 the Sexual Assault Response Team Advisory Committee as defined in KRS
27 403.707.

1 (b) Upon receipt of a completed claim form supplied by the board and an
2 itemized billing for a forensic sexual assault examination or related services
3 that are within the scope of practice of the respective provider and were
4 performed no more than twelve (12) months prior to submission of the form,
5 the board shall reimburse the hospital or sexual assault examination facility,
6 pharmacist, health department, physician, sexual assault nurse examiner, or
7 other qualified medical professional as provided in administrative regulations
8 promulgated by the board pursuant to KRS Chapter 13A. Reimbursement
9 shall be made to an out-of-state nurse who is credentialed in the other state to
10 provide sexual assault examinations, an out-of-state hospital, or an out-of-
11 state physician if the sexual assault occurred in Kentucky.

12 (c) Independent investigation by the Crime Victims Compensation Board shall
13 not be required for payment of claims under this section; however, the board
14 may require additional documentation or proof that the forensic medical
15 examination was performed.

16 ~~(10)~~~~(9)~~ No charge shall be made to the victim for sexual assault examinations by the
17 hospital, the sexual assault examination facility, the physician, the pharmacist, the
18 health department, the sexual assault nurse examiner, other qualified medical
19 professional, the victim's insurance carrier, or the Commonwealth.

20 ~~(11)~~~~(10)~~ (a) 1. Each victim shall have the right to determine whether a report or
21 other notification shall be made to law enforcement, except where
22 reporting of abuse and neglect of a child or a vulnerable adult is
23 required, as set forth in KRS 209.030 and 620.030.

24 2. Each victim shall be advised that if a report is not made to law
25 enforcement within three (3) months of the sexual assault, the victim
26 shall not be eligible for those benefits that are specifically designated
27 for a victim of sexual assault that conceives a child as a result of the

1 *sexual assault or for the child conceived and born as a result of the*
2 *sexual assault.*

3 3. No victim shall be denied an examination because the victim chooses
4 not to file a police report, cooperate with law enforcement, or otherwise
5 participate in the criminal justice system.

6 (b) If the victim chooses to report to law enforcement, the hospital shall notify
7 law enforcement within twenty-four (24) hours.

8 (c) 1. All samples collected during an exam where the victim has chosen not
9 to immediately report to law enforcement shall be stored, released, and
10 destroyed, if appropriate, in accordance with an administrative
11 regulation promulgated by the Justice and Public Safety Cabinet in
12 consultation with the Sexual Assault Response Team Advisory
13 Committee as defined in KRS 403.707.

14 2. Facilities collecting samples pursuant to this section may provide the
15 required secure storage, sample destruction, and related activities, or
16 may enter into agreements with other agencies qualified to do so,
17 pursuant to administrative regulation.

18 3. All samples collected pursuant to this section shall be stored for at least
19 one (1) year from the date of collection in accordance with the
20 administrative regulation promulgated pursuant to this subsection.

21 4. Notwithstanding KRS 524.140, samples collected during exams where
22 the victim chose not to report immediately or file a report within one (1)
23 year after collection may be destroyed as set forth in accordance with
24 the administrative regulation promulgated pursuant to this subsection.
25 The victim shall be informed of this process at the time of the
26 examination. No hospital, sexual assault examination facility, or
27 designated storage facility shall be liable for destruction of samples after

1 the required storage period has expired.

2 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO
3 READ AS FOLLOWS:

4 **(1) A child conceived and born as a result of sexual assault is a victim of criminally**
5 **injurious conduct as defined in KRS 49.280 and shall be eligible for awards**
6 **pursuant to KRS 49.270 to 49.490.**

7 **(2) As used in this section, "child conceived and born as a result of sexual assault"**
8 **has the same meaning as in Section 13 of this Act.**

9 ➔Section 22. KRS 49.310 is amended to read as follows:

10 (1) Except as provided in subsections (2) and (3) of this section **and Section 21 of this**
11 **Act**, the following persons shall be eligible for awards pursuant to KRS 49.270 to
12 49.490:

13 (a) A victim of criminally injurious conduct;

14 (b) A surviving spouse, parent, or child of a victim of criminally injurious
15 conduct who died as a direct result of such conduct;

16 (c) Any other person dependent for his principal support upon a victim of
17 criminally injurious conduct who died as a direct result of such crime; and

18 (d) Any person who is legally responsible for the medical expenses or funeral
19 expenses of a victim.

20 (2) No victim or dependent shall be denied compensation solely because he or she is a
21 relative of the offender or was living with the offender as a family or household
22 member at the time of the injury or death. However, the Crime Victims
23 Compensation Board may award compensation to a victim or dependent who is a
24 relative, family, or household member of the offender only if the board can
25 reasonably determine the offender will not receive significant economic benefit or
26 unjust enrichment from the compensation.

27 (3) No compensation of any kind shall be awarded when injury occurred while the

1 victim was confined in any state, county, urban-county, or city jail, prison, or other
2 correctional facility, or any state institution maintained and operated by the Cabinet
3 for Health and Family Services.

4 ➔Section 23. KRS 625.090 is amended to read as follows:

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

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

10 2. The child is found to be an abused or neglected child, as defined in KRS
11 600.020(1), by the Circuit Court in this proceeding;

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

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

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

23 c. In the absence of a prescription for the treatment of a legitimate
24 medical condition, agrees, prior to discharge from the hospital, to
25 participate in a court-ordered assessment by a drug treatment
26 provider and the assigning of a certified peer support specialist for
27 referral to appropriate treatment, and agrees to participate in

1 treatment which shall commence within ninety (90) days after the
2 birth; or

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

8 *b. The parent has entered a guilty plea or been convicted of any*
9 *conduct prohibited as any degree of rape, sexual abuse, or*
10 *sexual misconduct under KRS Chapter 510, and the criminal act*
11 *upon which the plea or conviction is based resulted in the birth*
12 *of the child;*

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

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

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

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

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

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

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

- 1 emotional harm;
- 2 (d) That the parent has been convicted of:
 - 3 1. A felony that involved the infliction of serious physical injury to any
 - 4 child; or
 - 5 2. *Any conduct prohibited as any degree of rape, sexual abuse, or sexual*
 - 6 *misconduct under KRS Chapter 510 that resulted in the birth of the*
 - 7 *child;*
- 8 (e) That the parent, for a period of not less than six (6) months, has continuously
- 9 or repeatedly failed or refused to provide or has been substantially incapable
- 10 of providing essential parental care and protection for the child and that there
- 11 is no reasonable expectation of improvement in parental care and protection,
- 12 considering the age of the child;
- 13 (f) That the parent has caused or allowed the child to be sexually abused or
- 14 exploited;
- 15 (g) That the parent, for reasons other than poverty alone, has continuously or
- 16 repeatedly failed to provide or is incapable of providing essential food,
- 17 clothing, shelter, medical care, or education reasonably necessary and
- 18 available for the child's well-being and that there is no reasonable expectation
- 19 of significant improvement in the parent's conduct in the immediately
- 20 foreseeable future, considering the age of the child;
- 21 (h) That:
 - 22 1. The parent's parental rights to another child have been involuntarily
 - 23 terminated;
 - 24 2. The child named in the present termination action was born subsequent
 - 25 to or during the pendency of the previous termination; and
 - 26 3. The conditions or factors which were the basis for the previous
 - 27 termination finding have not been corrected;

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

- 1 (e) The physical, emotional, and mental health of the child and the prospects for
2 the improvement of the child's welfare if termination is ordered; and
- 3 (f) The payment or the failure to pay a reasonable portion of substitute physical
4 care and maintenance if financially able to do so.
- 5 (4) If the child has been placed with the cabinet, the parent may present testimony
6 concerning the reunification services offered by the cabinet and whether additional
7 services would be likely to bring about lasting parental adjustment enabling a return
8 of the child to the parent.
- 9 (5) If the parent proves by a preponderance of the evidence that the child will not
10 continue to be an abused or neglected child as defined in KRS 600.020(1) if
11 returned to the parent the court in its discretion may determine not to terminate
12 parental rights.
- 13 (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
14 findings of fact, conclusions of law, and a decision as to each parent-respondent
15 within thirty (30) days either:
- 16 (a) Terminating the right of the parent; or
- 17 (b) Dismissing the petition and stating whether the child shall be returned to the
18 parent or shall remain in the custody of the state.

19 ➔Section 24. If the state would, or would likely, be required to make payments to
20 defray the cost of any requirement under Section 1 or 2 of this Act, as provided under 42
21 U.S.C. sec. 18031(d)(3) and 45 C.F.R. sec. 155.170, as amended, then the Department of
22 Insurance shall, within 90 days of the effective date of this section, apply for a waiver
23 under 42 U.S.C. sec. 18052, as amended, or any other applicable federal law of all or any
24 of the cost defrayal requirements.

25 ➔Section 25. If the Cabinet for Health and Family Services determines that a
26 waiver or other authorization from a federal agency is necessary to implement Section 6,
27 8, 9, or 10 of this Act for any reason, including the loss of federal funds, the cabinet shall,

1 within 90 days of the effective date of this section, request the waiver or authorization,
2 and may only delay implementation of those provisions for which a waiver or
3 authorization was deemed necessary until the waiver or authorization is granted.

4 ➔Section 26. Sections 1 to 7 of this Act apply to plans issued or renewed on or
5 after January 1, 2025.

6 ➔Section 27. Sections 1, 2, 3, 4, 5, 6, 7, and 26 of this Act take effect on January
7 1, 2025.

8 ➔Section 28. This Act may be cited as the Love Them Both Act.