AN ACT relating to children's services.

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

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

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

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

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

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

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

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

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

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

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

(9) "Foster family home" means a private home in which children are placed for foster

family care under supervision of the cabinet or of a licensed child-placing agency;

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

(11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;

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

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

(14) ***"Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10); and***

(15) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption

that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person and include the following:

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

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

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

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

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

1. If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail.

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

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

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

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

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

➔Section 2. KRS 199.650 is amended to read as follows:

(1) Any licensed child-caring facility or child-placing agency may contract to provide care, maintenance, and services for a child in accordance with the terms of its license.

(2) Any licensed child-caring facility or child-placing agency may receive children committed to its custody and provide care and services for the child until the child is discharged from custody pursuant to law.

(3) Each licensed child-caring facility shall designate an on-site official who is trained and authorized to apply the reasonable and prudent parent standard as defined in Section 1 of this Act in accordance with 42 U.S.C. sec. 671.

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

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

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

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

1. Inflicts or allows to be inflicted upon the child physical or emotional

injury as defined in this section by other than accidental means;

2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;
4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
7. Abandons or exploits the child;
8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months; or

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

(2) ***"Age or developmentally-appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);***

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

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

(b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;

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

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

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

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

(5)[~~(4)~~] "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as

a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

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

(7)[~~(6)~~] "Cabinet" means the Cabinet for Health and Family Services;

(8)[~~(7)~~] "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(9)[~~(8)~~] "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;

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

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

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

(13)[~~(12)~~] "Commitment" means an order of the court which places a child under the

custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;

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

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

(16)[~~(15)~~] "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

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

(18)[~~(17)~~] "Deadly weapon" has the same meaning as it does in KRS 500.080;

(19)[~~(18)~~] "Department" means the Department for Community Based Services;

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

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

(22)[~~(21)~~] "Detention hearing" means a hearing held by a judge or trial commissioner

within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

(23)[~~(22)~~] "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;

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

(a) Is or has been committed to the cabinet as dependent, neglected, or abused;

(b) Is eighteen (18) years of age to nineteen (19) years of age; and

(c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;

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

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

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

(28)[~~(27)~~] "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

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

(30)[~~(29)~~] "Graduated sanction" means any of a continuum of accountability measures,

programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:

(a) Electronic monitoring;

(b) Drug and alcohol screening, testing, or monitoring;

(c) Day or evening reporting centers;

(d) Reporting requirements;

(e) Community service; and

(f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;

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

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

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

(34)[~~(33)~~] "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

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

(36)[~~(35)~~] "Intentionally" means, with respect to a result or to conduct described by a

statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

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

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

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

(40)[~~(39)~~] "Needs of the child" means necessary food, clothing, health, shelter, and education;

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

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

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

(44)[~~(43)~~] "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;

(45)[~~(44)~~] "Parent" means the biological or adoptive mother or father of a child;

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

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

(48)[~~(47)~~] "Physical injury" means substantial physical pain or any impairment of physical condition;

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

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

(51)[~~(50)~~] "Qualified mental health professional" means:

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

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to

apply for certification by the American Board of Psychiatry and Neurology, Inc.;

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

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

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

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

(g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in

psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

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

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

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

(55)[~~(53)~~] "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;

(56)[~~(54)~~] "School personnel" means those certified persons under the supervision of the local public or private education agency;

(57)[~~(55)~~] "Secretary" means the secretary of the Cabinet for Health and Family Services;

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

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

(60)[~~(58)~~] "Sexual abuse" includes but is not necessarily limited to any contacts or

interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

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

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

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

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

1. Beyond the control of school or beyond the control of parents;

2. Habitual Runaway;

3. Habitual truant;

4. Tobacco offenses as provided in KRS 438.305 to 438.340; and

5. Alcohol offenses as provided in KRS 244.085.

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

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

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

(67)[~~(65)~~] "Transition plan" means a plan that is personalized at the direction of the youth that:

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

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

(68)[~~(66)~~] "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:

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

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

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

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

(69)[~~(67)~~] "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

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

(71)[~~(69)~~] "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 600 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "caregiver" has the same meaning as in 42 U.S.C. sec. 675(10)(B).

(2) In accordance with 42 U.S.C. sec. 671, a caregiver shall use the reasonable and prudent parent standard to determine whether to allow a child in the custody of the cabinet to participate in an age or developmentally appropriate extracurricular, enrichment, or social activity.

(3) A caregiver may be held liable for an act or omission of a child in the custody of the cabinet if the caregiver fails to act in accordance with the reasonable and prudent parent standard. Nothing in this subsection is intended to abrogate or diminish the immunities of a cabinet official acting in the course and scope of the cabinet official's employment or create a legal duty on the part of a cabinet official.

(4) (a) A caregiver shall not be liable for an injury to a child in the custody of the cabinet that occurs as a result of acting in accordance with the reasonable

and prudent parent standard.

(b) The immunity provided in paragraph (a) of this subsection does not apply if the injury to the child was caused by gross negligence, willful and wanton conduct, or intentional wrongdoing. Nothing in this paragraph is intended to abrogate or diminish the immunities of a cabinet official acting in the course and scope of the cabinet official's employment or create a legal duty on the part of a cabinet official.

(5) For any action under this section, the burden of proof with respect to a breach of the reasonable and prudent parent standard shall be clear and convincing evidence.

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

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

The court shall address the following areas:

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

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

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

(d) Whether the cabinet has documented a compelling reason that it is in the best interest of the child ***who is age sixteen (16) or older*** to be placed in another

planned permanent living arrangement other than those listed in this subsection***. Prior to the approval of this permanency goal, the court shall:***

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

2. Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency goal for the child and provide compelling reasons why return home, placement for adoption, and placement with a legal guardian or a relative are not in the best interest of the child.

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

(3) The Department of Juvenile Justice or the cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section, and shall further inform the court of the name and address of the child's foster parents, preadoptive parents, or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case. For the hearing to be held pursuant to subsection (2) of this section, the names and addresses of the persons identified in this subsection shall be provided in the case permanency plan or case progress report to be filed with the court. The court shall set a time for the hearing and notify the child's parent, foster parents, preadoptive parents, or relatives providing care to the child and who also shall have a right to be heard; court-appointed special advocate; foster care review board member assigned to the case;

attorney for the child; attorney for the parent, if any; and the Department of Juvenile Justice or the cabinet.

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

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

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

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

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

(e) The familial and institutional barriers to:

1. Returning the child to the home;

2. Ending the commitment of the child to the Department of Juvenile Justice or the cabinet; and

3. Delivery of appropriate services needed by the child;

(f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of ***fourteen (14)***~~[sixteen (16)]~~ years;

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

(h) Recommendations for necessary services required to terminate the

commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement;~~[and]~~

(i) Recommendations as to the permanency goal for the child***; and***

(j) For a child with another planned permanency arrangement as the child's permanency goal:

1. The intensive, ongoing efforts to return the child to the home or secure a placement with a fit and reliable relative, legal guardian, or adoptive parent, including efforts that utilize search technology to find the biological family;

2. The steps the agency is taking to ensure that the child's foster family home or licensed child-caring facility is following the reasonable and prudent parent standard in accordance with 42 U.S.C. sec. 671; and

3. The cabinet's efforts to ensure the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the child in an age and developmentally appropriate manner about the opportunities of the child to participate in the activities.

(5) (a) The child's parent, foster parent, preadoptive parent, or relative providing care to the child shall have the right to be heard; and

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

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

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

➔Section 6. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect, or abuse;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) ***A licensed child-caring facility or child-placing agency evaluating placement for or serving a child who is believed to be the victim of an abuse, neglect, or dependency report;***

(e) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;

(f)~~[(e)]~~ A noncustodial parent when the dependency, neglect, or abuse is substantiated;

(g)~~[(f)]~~ Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;

(h)~~[(g)]~~ Employees or designated agents of a children's advocacy center;

(i)~~[(h)]~~ Those persons so authorized by court order; or

(j)~~[(i)]~~ The external child fatality and near fatality review panel established by KRS 620.055.

(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and

shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;
2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms;
3. The court and those persons so authorized by a court order; and
4. The external child fatality and near fatality review panel established by KRS 620.055.

(b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.

(8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

(9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy

center.

(10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:

1. Make and retain one (1) copy of the interview; and
2. Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.

(b) The defendant's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

(d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

(a) To law enforcement officials that have a legitimate interest in the case;

(b) To the agency designated by the cabinet to investigate or assess the report;

(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600

(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report; or

(e) The external child fatality and near fatality review panel established by KRS 620.055.

(12) (a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:

1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and

2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.

(c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.

(13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(14) As a result of any report of suspected child abuse or neglect, photographs and X-

rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

(15) In accordance with 42 U.S.C. sec. 671, the cabinet shall share information about a child in the custody of the cabinet with a relative or a parent of the child's sibling for the purposes of:

(a) Evaluating or arranging a placement for the child;

(b) Arranging appropriate treatment services for the child; or

(c) Establishing visitation between the child and a relative, including a sibling of the child.