

1 AN ACT relating to the false reporting of claims of abuse.

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

3 ➔Section 1. KRS 403.270 is amended to read as follows:

4 (1) (a) As used in this chapter and KRS 405.020, unless the context requires
5 otherwise, "de facto custodian" means a person who has been shown by clear
6 and convincing evidence to have been the primary caregiver for, and financial
7 supporter of, a child who has resided with the person for a period of six (6)
8 months or more if the child is under three (3) years of age and for a period of
9 one (1) year or more if the child is three (3) years of age or older or has been
10 placed by the Department for Community Based Services. Any period of time
11 after a legal proceeding has been commenced by a parent seeking to regain
12 custody of the child shall not be included in determining whether the child has
13 resided with the person for the required minimum period.

14 (b) A person shall not be a de facto custodian until a court determines by clear
15 and convincing evidence that the person meets the definition of de facto
16 custodian established in paragraph (a) of this subsection. Once a court
17 determines that a person meets the definition of de facto custodian, the court
18 shall give the person the same standing in custody matters that is given to each
19 parent under this section and KRS 403.280, 403.340, 403.350, 403.822, and
20 405.020.

21 (2) The court shall determine custody in accordance with the best interests of the child
22 and equal consideration shall be given to each parent and to any de facto custodian.
23 Subject to KRS 403.315, there shall be a presumption, rebuttable by a
24 preponderance of evidence, that joint custody and equally shared parenting time is
25 in the best interest of the child. If a deviation from equal parenting time is
26 warranted, the court shall construct a parenting time schedule which maximizes the
27 time each parent or de facto custodian has with the child and is consistent with

- 1 ensuring the child's welfare. The court shall consider all relevant factors including:
- 2 (a) The wishes of the child's parent or parents, and any de facto custodian, as to
3 his or her custody;
- 4 (b) The wishes of the child as to his or her custodian, with due consideration
5 given to the influence a parent or de facto custodian may have over the child's
6 wishes;
- 7 (c) The interaction and interrelationship of the child with his or her parent or
8 parents, his or her siblings, and any other person who may significantly affect
9 the child's best interests;
- 10 (d) The motivation of the adults participating in the custody proceeding;
- 11 (e) The child's adjustment and continuing proximity to his or her home, school,
12 and community;
- 13 (f) The mental and physical health of all individuals involved;
- 14 (g) A finding by the court that domestic violence and abuse, as defined in KRS
15 403.720, has been committed by one (1) of the parties against a child of the
16 parties or against another party. The court shall determine the extent to which
17 the domestic violence and abuse has affected the child and the child's
18 relationship to each party, with due consideration given to efforts made by a
19 party toward the completion of any domestic violence treatment, counseling,
20 or program;
- 21 (h) *A finding by the court that a party or de facto custodian has violated*
22 *subsection (1)(f) of Section 2 of this Act by making false reports of domestic*
23 *violence or abuse as defined in KRS 403.720 or sexual assault as defined in*
24 *KRS 456.010 against another party or de facto custodian in an attempt to*
25 *adversely affect custody or parenting time. Any party who violates*
26 *subsection(1)(f) of Section 2 of this Act shall not be entitled to a rebuttable*
27 *presumption of joint custody and equally shared parenting time;*

1 (i) The extent to which the child has been cared for, nurtured, and supported by
2 any de facto custodian;

3 ~~(j)~~ The intent of the parent or parents in placing the child with a de facto
4 custodian;

5 ~~(k)~~ The circumstances under which the child was placed or allowed to
6 remain in the custody of a de facto custodian, including whether the parent
7 now seeking custody was previously prevented from doing so as a result of
8 domestic violence as defined in KRS 403.720 and whether the child was
9 placed with a de facto custodian to allow the parent now seeking custody to
10 seek employment, work, or attend school; and

11 ~~(l)~~ The likelihood a party will allow the child frequent, meaningful, and
12 continuing contact with the other parent or de facto custodian, except that the
13 court shall not consider this likelihood if there is a finding that the other
14 parent or de facto custodian engaged in domestic violence and abuse, as
15 defined in KRS 403.720, against the party or a child and that a continuing
16 relationship with the other parent will endanger the health or safety of either
17 that party or the child.

18 (3) The abandonment of the family residence by a custodial party shall not be
19 considered where said party was physically harmed or was seriously threatened with
20 physical harm by his or her spouse, when such harm or threat of harm was causally
21 related to the abandonment.

22 (4) If the court grants custody to a de facto custodian, the de facto custodian shall have
23 legal custody under the laws of the Commonwealth.

24 ➔Section 2. KRS 519.040 is amended to read as follows:

25 (1) A person is guilty of falsely reporting an incident when he or she:

26 (a) Knowingly causes a false alarm of fire or other emergency to be transmitted to
27 or within any organization, official or volunteer, that deals with emergencies

- 1 involving danger to life or property;~~{or}~~
- 2 (b) Reports to law enforcement authorities an offense or incident within their
3 official concern knowing that it did not occur;~~{or}~~
- 4 (c) Furnishes law enforcement authorities with information allegedly relating to
5 an offense or incident within their official concern when he knows he has no
6 information relating to such offense or incident;~~{or}~~
- 7 (d) Knowingly gives false information to any law enforcement officer with intent
8 to implicate another; ~~{or}~~
- 9 (e) Initiates or circulates a report or warning of an alleged occurrence or
10 impending occurrence of a fire or other emergency under circumstances likely
11 to cause public inconvenience or alarm when he or she knows the information
12 reported, conveyed or circulated is false or baseless; or
- 13 **(f) Reports an incident of domestic violence or abuse as defined in KRS**
14 **403.720 or sexual assault as defined in KRS 456.010 to any law**
15 **enforcement officer, officer of the court, or government agency officer**
16 **when he or she knows the information reported, conveyed, or circulated is**
17 **false or baseless.**
- 18 (2) **As used in this section, "government agency officer" includes any person**
19 **employed by the Cabinet for Health and Family Services.**
- 20 **(3)** Falsely reporting an incident is a Class A misdemeanor.