

1 AN ACT relating to adoption.

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

3 ➔Section 1. KRS 199.470 is amended to read as follows:

- 4 (1) Any person who is eighteen (18) years of age and who is a resident of this state or
5 who has resided in this state for twelve (12) months next before filing may file a
6 petition for leave to adopt a child in the Circuit Court of the county in which the
7 petitioner resides.
- 8 (2) If the petitioner is married, the husband or wife shall join in a petition for leave to
9 adopt a child unless the petitioner is married to a biological parent of the child to be
10 adopted, except that if the court finds the requirement of a joint petition would serve
11 to deny the child a suitable home, the requirement may be waived.
- 12 (3) If a child is placed for adoption by the cabinet, by an agency licensed by the cabinet,
13 or with written approval by the secretary of the cabinet, the petition may be filed at
14 the time of placement. In all other adoptions, the petition shall not be filed until the
15 child has resided continuously in the home of the petitioner for at least ninety (90)
16 days immediately prior to the filing of the adoption petition.
- 17 (4) No petition for adoption shall be filed unless prior to the filing of the petition the
18 child sought to be adopted has been placed for adoption by a child-placing
19 institution or agency, or by the cabinet, or the child has been placed with written
20 approval of the secretary; but no approval shall be necessary in the case of:
- 21 (a) A child sought to be adopted by a ***blood relative, including a relative of half-***
22 ***blood, first cousin, aunt, uncle, nephew, niece, and a person of a preceding***
23 ***generation as denoted by prefixes of grand, great, or great-great; stepparent***
24 ***or step-sibling; or fictive kin***~~[stepparent, grandparent, sister, brother, aunt,~~
25 ~~uncle, great-grandparent, great-aunt, or great-uncle];~~ however, the court in its
26 discretion may order a report in accordance with KRS 199.510 and a
27 background check as provided in KRS 199.473(8);

1 (b) A child received by the proposed adopting parent or parents from an agency
2 without this state with the written consent of the secretary; ~~or~~

3 (c) A child adopted under the provisions of KRS 199.585(1); or

4 **(d) A child who has been approved under KRS Chapter 615.**

5 ~~[(5) Subsection (4) of this section shall not apply to children placed for adoption prior to
6 June 14, 1962.]~~

7 ➔Section 2. KRS 199.500 is amended to read as follows:

8 (1) An adoption shall not be granted without the voluntary and informed consent, as
9 defined in KRS 199.011, of the living parent or parents of a child born in lawful
10 wedlock or the mother of the child born out of wedlock, or the father of the child
11 born out of wedlock if paternity is established in a legal action or if an affidavit is
12 filed stating that the affiant is the father of the child, except that the consent of the
13 living parent or parents shall not be required if:

14 (a) The parent or parents have been adjudged mentally disabled and the judgment
15 shall have been in effect for not less than one (1) year prior to the filing of the
16 petition for adoption;

17 (b) The parental rights of the parents have been terminated under KRS Chapter
18 625;

19 (c) The living parents are divorced and the parental rights of one (1) parent have
20 been terminated under KRS Chapter 625 and consent has been given by the
21 parent having custody and control of the child; or

22 (d) The biological parent has not established parental rights as required by KRS
23 625.065.

24 (2) A minor parent who is a party defendant may consent to an adoption but a guardian
25 ad litem for the parent shall be appointed.

26 (3) In the case of a child twelve (12) years of age or older, the consent of the child shall
27 be given in court. The court in its discretion may waive this requirement.

1 (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be
 2 granted without the consent of the biological living parents of a child if it is pleaded
 3 and proved as a part of the adoption proceedings that any of the provisions of KRS
 4 625.090 exist with respect to the child.

5 (5) An adoption shall not be granted or a consent for adoption be held valid if the
 6 consent for adoption is given prior to seventy-two (72) hours after the birth of the
 7 child. A voluntary and informed consent may be taken at seventy-two (72) hours
 8 after the birth of the child and shall become final and irrevocable twenty (20) days
 9 after signing~~[under paragraphs (a) and (b) of this subsection.~~

10 ~~(a) If placement approval by the secretary is required, the voluntary and informed~~
 11 ~~consent shall become final and irrevocable twenty (20) days after the later of~~
 12 ~~the placement approval or the execution of the voluntary and informed~~
 13 ~~consent.~~

14 ~~(b) If placement approval by the secretary is not required, the voluntary and~~
 15 ~~informed consent shall become final and irrevocable twenty (20) days after the~~
 16 ~~execution of the voluntary and informed consent].~~

17 ➔Section 3. KRS 199.502 is amended to read as follows:

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

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 had 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 a felony that involved the infliction of
- 3 serious physical injury to a child named in the present adoption proceeding;
- 4 (e) That the parent, for a period of not less than six (6) months, has continuously
- 5 or repeatedly failed or refused to provide or has been substantially incapable
- 6 of providing essential parental care and protection for the child, and that there
- 7 is no reasonable expectation of improvement in parental care and protection,
- 8 considering the age of the child;
- 9 (f) That the parent has caused or allowed the child to be sexually abused or
- 10 exploited;
- 11 (g) That the parent, for reasons other than poverty alone, has continuously or
- 12 repeatedly failed to provide or is incapable of providing essential food,
- 13 clothing, shelter, medical care, or education reasonably necessary and
- 14 available for the child's well-being and that there is no reasonable expectation
- 15 of significant improvement in the parent's conduct in the immediately
- 16 foreseeable future, considering the age of the child;
- 17 (h) That:
 - 18 1. The parent's parental rights to another child have been involuntarily
 - 19 terminated;
 - 20 2. The child named in the present adoption proceeding was born
 - 21 subsequent to or during the pendency of the previous termination; and
 - 22 3. The condition or factor which was the basis for the previous termination
 - 23 finding has not been corrected; or
- 24 (i) That the parent has been convicted in a criminal proceeding of having caused
- 25 or contributed to the death of another child as a result of physical or sexual
- 26 abuse or neglect.
- 27 (2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter

1 findings of fact, conclusions of law, and a decision either:

2 (a) Granting the adoption without the biological parent's consent; or

3 (b) Dismissing the adoption petition, and stating whether the child shall be
4 returned to the biological parent or the child's custody granted to the state,
5 another agency, or the petitioner.

6 **(3) (a) A biological parent shall have the right to legal representation in and**
7 **adoption wherein he or she does not consent. The Circuit Court shall**
8 **determine if a biological parent is indigent and entitled to counsel under**
9 **KRS Chapter 31.**

10 **(b) If the Circuit Court finds one (1) or both biological parents indigent**
11 **pursuant to KRS Chapter 31, the Circuit Court shall inform the indigent**
12 **parent and, if it appears reasonably necessary in the interest of justice, the**
13 **Circuit Court shall, upon request, appoint an attorney to represent the**
14 **indigent parent to be provided or paid for by:**

15 **1. The petitioner, in an amount to be set by the Circuit Court that shall**
16 **not exceed five hundred dollars (\$500); or**

17 **2. If the petitioner is a relative or kin as described in subsection (4)(a) of**
18 **Section 1 of this Act, the Finance and Administration Cabinet, in a**
19 **amount to be set by the Circuit Court that shall not exceed five**
20 **hundred dollars (\$500).**

21 ➔Section 4. KRS 199.473 is amended to read as follows:

22 (1) All persons other than a child-placing agency or institution, the department, or
23 persons excepted by KRS 199.470(4)~~or (5)~~ who wish to place or receive a child
24 shall make written application to the secretary for permission to place or receive a
25 child.

26 (2) Prior to the approval of an application to place or receive a child, the fee required
27 pursuant to subsection (13) of this section shall be paid and a home study shall be

1 completed. The purpose of the home study shall be to review the background of the
2 applicant and determine the suitability of the applicant to receive a child, taking into
3 account at all times the best interest of the child for whom application to receive has
4 been made.

- 5 (3) (a) The home study shall be made in accordance with administrative regulations
6 promulgated by the cabinet in accordance with KRS Chapter 13A.
- 7 (b) The cabinet shall conduct the home study for an applicant whose total gross
8 income is equal to or less than two hundred fifty percent (250%) of the federal
9 poverty level guidelines issued each year by the federal government, unless
10 the applicant submits a written request for the home study to be conducted by
11 a licensed child-placing agency or institution. Upon request, the cabinet shall
12 make information available to an applicant who does not meet the
13 requirements of this paragraph to assist the applicant in obtaining a home
14 study from a licensed child-placing agency approved to provide adoption
15 services.
- 16 (c) A licensed child-placing agency approved to provide adoption services shall
17 conduct the home study for an applicant whose gross total income is more
18 than two hundred fifty percent (250%) of the federal poverty level guidelines
19 issued each year by the federal government.
- 20 (d) Calculation of family size for this subsection shall include each child
21 requested to be adopted.
- 22 (e) The portion of the home study pertaining to the home and family background
23 shall be valid for one (1) year following the date of its completion by an
24 adoption worker.
- 25 (4) The adoption worker making the home study shall make a finding in writing
26 recommending either that the application be granted or that the application be
27 denied. The recommendation of the adoption worker shall then be reviewed by the

1 secretary.

2 (5) Based on the report and recommendation of the adoption worker making the home
3 study, the secretary shall grant or refuse permission for the applicant to place or
4 receive a child as early as practicable, but, in any case, the decision shall be made
5 within sixty (60) days after the receipt of the application. In reaching a decision, the
6 secretary shall be guided by the ability of the persons wishing to receive the child to
7 give the child a suitable home, and shall at all times consider the best interest of the
8 child from a financial, medical, psychological, and psychiatric standpoint.

9 (6) If the application is refused, the secretary shall in general terms furnish in writing
10 the reasons for his or her refusal.

11 (7) Any person who seeks temporary custody of a child prior to the secretary's ruling on
12 an application for adoption shall file a petition seeking temporary custody, with a
13 notice of intent to adopt, with the Circuit Court that will have jurisdiction of the
14 adoption proceedings. The clerk of the court shall send a notice of the filing of the
15 petition to the cabinet. A hearing on the petition shall occur no later than seventy-
16 two (72) hours after the filing of the petition, excluding weekends and holidays.
17 Proceedings under this subsection shall be incorporated into the court's adoption
18 file. If the adoption is not finalized within six (6) months of the filing of the petition
19 and notice of intent, the court shall conduct a hearing on the status and custody of
20 the child.

21 (8) Upon a finding by the Circuit Court that the child should be placed prior to the
22 secretary's ruling on the application, the Circuit Court may grant the applicant
23 temporary custody of the child pending the decision of the secretary. Temporary
24 custody shall not be granted to an applicant unless a background check, including
25 but not limited to a criminal records check by the Justice and Public Safety Cabinet
26 or the Administrative Office of the Courts and a background check of child abuse
27 and neglect records maintained by the cabinet, has been submitted to and reviewed

1 by the court. The background check required for temporary custody shall be part of
2 the home study required under subsection (2) of this section. If the application is
3 denied by the secretary, the temporary custody order shall be set aside and, upon
4 motion of the cabinet or of the child's parent or parents, the Circuit Court may order
5 the child returned to the biological parent or parents or the child's custody may be
6 awarded to the cabinet, another licensed child-placing agency, or other individuals
7 deemed appropriate by the court. This section shall not be deemed to permit the
8 completion of any adoption proceeding without the approval of the secretary and
9 compliance with KRS 615.030, if required.

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

19 (10) The cabinet may refuse to approve the placement of a child for adoption if the
20 child's custodial parent is unwilling for the child to be placed for adoption with the
21 proposed adoptive family. The cabinet may approve or deny the placement, in spite
22 of the fact that the custodial parent or parents are unwilling to be interviewed by the
23 cabinet or other approving entity, or if, after diligent efforts have been made, the
24 adoption worker is unable to locate or interview the custodial parent or parents. The
25 cabinet shall be made a party defendant to the appeal. In the hearing of an appeal,
26 the court shall review the findings of the secretary and shall determine if the
27 secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse

1 of discretion.

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

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

18 (13) The secretary of the Cabinet for Health and Family Services shall be paid a
19 nonrefundable fee of two hundred dollars (\$200) upon the filing of the written
20 application for permission to place or receive a child. Payment shall be made by
21 certified or cashier's check only. All funds collected under this section shall be
22 deposited in a restricted account, which is hereby created, for the purpose of
23 subsidizing an adoptive parent for suitable care of a special-needs child as
24 authorized in KRS 199.555.

25 (14) Nothing in this statute shall be construed to limit the authority of the cabinet or a
26 child-placing institution or agency to determine the proper disposition of a child
27 committed to it by the juvenile session of District Court or the Circuit Court, prior

1 to the filing of an application to place or receive.

2 ➔Section 5. KRS 199.490 is amended to read as follows:

3 (1) The petition shall allege:

- 4 (a) The name, date, place of birth, place of residence, and mailing address of each
5 petitioner, and, if married, the date and place of their marriage;
- 6 (b) The name, date, place of birth, place of residence, and mailing address, if
7 known, of the child sought to be adopted;
- 8 (c) Relationship, if any, of the child to each petitioner;
- 9 (d) Full name by which the child shall be known after adoption;
- 10 (e) A full description of the property, if any, of the child so far as it is known to
11 the petitioner;
- 12 (f) The names of the parents of the child and the address of each living parent, if
13 known. The name of the biological father of a child born out of wedlock shall
14 not be given unless paternity is established in a legal action, or unless an
15 affidavit is filed stating that the affiant is the father of the child. If certified
16 copies of orders terminating parental rights are filed as provided in subsection
17 (2) of this section, the name of any parent whose rights have been terminated
18 shall not be given;
- 19 (g) The name and address of the child's guardian, if any, or of the cabinet,
20 institution, or agency having legal custody of the child;
- 21 (h) Any further facts necessary for the location of the person or persons whose
22 consent to the adoption is required, or whom KRS 199.480 requires to be
23 made a party to or notified of the proceeding; and
- 24 (i) If any fact required by this subsection to be alleged is unknown to the
25 petitioners, the lack of knowledge shall be alleged.
- 26 (2) There shall be filed with the petition certified copies of any orders terminating
27 parental rights. Any consent to adoption shall be filed prior to the entry of the

1 adoption judgment.

2 (3) If the petitioner was not excepted by KRS 199.470(4)~~[-or-(5)]~~, a copy of the written
3 approval of the secretary of the Cabinet for Health and Family Services or the
4 secretary's designee shall be filed with the petition.

5 ➔Section 6. KRS 625.040 is amended to read as follows:

6 (1) A petition for the voluntary termination of parental rights shall be entitled "In the
7 interest of..., a child." The petition may be filed by a parent or counsel when the
8 appearance-waiver and consent-to-adopt forms are signed by the parent, counsel,
9 and cabinet representative under the conditions described in KRS 625.041(3) and
10 (4).

11 (2) The petition for the voluntary termination of parental rights shall be filed in the
12 Circuit Court of the judicial circuit where the petitioner or child resides or in the
13 Circuit Court in the county in which juvenile court actions, if any, concerning the
14 child have commenced, and shall be verified and contain the following:

15 (a) Name and place of residence of each petitioner;

16 (b) Name, sex, date of birth, and place of residence of the child;

17 (c) Name and relationship of each petitioner to the child;

18 (d) A concise statement of the factual basis for the termination of parental rights;

19 (e) Name and address of the person or of the cabinet or authorized agency to
20 which parental rights are sought to be transferred; and

21 (f) A statement that the person, cabinet, or authorized agency to whom custody is
22 to be given has facilities available, is willing to receive the custody of the
23 child, and the person, if not excepted by KRS 199.470(4)~~[-or-(5)]~~, has applied
24 for the written permission of the secretary or the secretary's designee for the
25 child's placement. This provision shall not affect the right of a court to grant
26 temporary custody under KRS 199.473.

27 (3) No petition may be filed under this chapter prior to three (3) days after the birth of

1 the child.

2 ➔Section 7. KRS 625.042 is amended to read as follows:

- 3 (1) Within three (3) days after a petition for the voluntary termination of parental rights
4 is filed, the Circuit Court shall set a date for a hearing which shall not be more than
5 thirty (30) calendar days after the petition is filed. In any case in which the child's
6 permanent custody is proposed to be transferred to an individual not excepted by
7 KRS 199.470(4)~~[-or-(5)]~~, a final order of termination shall be entered only if the
8 proposed custodian has received the written approval of the secretary or the
9 secretary's designee for the child's placement as required by KRS 199.473.
- 10 (2) The Circuit Court shall require notice to be served upon the local representative of
11 the cabinet in any case in which a statement from the cabinet of willingness to
12 accept custody of the child has not been filed with the petition, or custody of the
13 child is to be placed with an individual unless the placement has been approved by
14 the cabinet. It shall not be necessary to serve notice upon the cabinet if custody of
15 the child is to be placed with the cabinet or with a child-placing agency.
- 16 (3) Proceedings under this chapter shall be completed as soon as practicable. All
17 hearings shall be held before the Circuit Court privately for the purpose of
18 determining the facts.
- 19 (4) An official stenographic or mechanical record shall be made of the proceedings and
20 retained for a period of five (5) years.
- 21 (5) The best interests of the child shall be considered paramount, including but not
22 limited to matters relating to child support.
- 23 (6) At the time of the hearing, the Circuit Court, after full and complete inquiry, shall
24 determine whether each petitioner is fully aware of the purpose of the proceedings
25 and the consequences of the provisions of this chapter.

26 ➔Section 8. KRS 625.043 is amended to read as follows:

- 27 (1) If the Circuit Court determines that parental rights are to be voluntarily terminated

1 in accordance with the provisions of this chapter, it shall make an order terminating
2 all parental rights and obligations of the parent and releasing the child from all legal
3 obligations to the parent and vesting care and custody of the child in the person,
4 agency, or cabinet the court believes is best qualified to receive custody.

5 (2) Upon consent by the Cabinet for Health and Family Services, the child may be
6 declared a ward of the state and custody vested in the cabinet or in any child-placing
7 agency or child-caring facility licensed by the cabinet or in another person if all
8 persons with parental rights to the child under the law have had their rights
9 terminated voluntarily or involuntarily. If the other person is not excepted by KRS
10 199.470(4) or (5), a grant of permanent custody shall be made only if the proposed
11 custodian has received the written approval of the secretary or the secretary's
12 designee for the child's placement.