

1 AN ACT relating to female genital mutilation.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "female genital mutilation" means a procedure that*
6 *involves the partial or total removal of the external female genitalia or any*
7 *procedure harmful to the female genitalia, including but not limited to:*

8 *(a) A clitoridectomy;*

9 *(b) The partial or total removal of the clitoris or the prepuce;*

10 *(c) The excision or the partial or total removal of the clitoris and the labia*
11 *minora, with or without excision of the labia majora;*

12 *(d) The infibulation or the narrowing of the vaginal orifice with the creation of*
13 *a covering seal by cutting and appositioning of the labia minora or the labia*
14 *majora, with or without the excision of the clitoris;*

15 *(e) Pricking, piercing, incising, scraping, or cauterizing the genital area; or*

16 *(f) Any other action to purposely alter the structure or function of the female*
17 *genitalia for a nonmedical reason.*

18 *(2) A person is guilty of female genital mutilation when:*

19 *(a) The person knowingly performs female genital mutilation on another*
20 *person under eighteen (18) years of age;*

21 *(b) The person is a parent, guardian, or has immediate custody or control of a*
22 *person under eighteen (18) years of age and knowingly consents to or*
23 *permits female genital mutilation of such person; or*

24 *(c) The person knowingly removes or causes or permits the removal of a person*
25 *under eighteen (18) years of age from Kentucky for the purposes of*
26 *performance of female genital mutilation of the person.*

27 *(3) It is not a defense to female genital mutilation that the conduct under subsection*

1 (2) of this section is:

2 (a) Required as a matter of religion, custom, ritual, or standard practice; or

3 (b) Consented to by the individual on whom it is performed or the individual's
4 parent or guardian.

5 (4) A surgical procedure is not a violation of subsection (1) of this section if the
6 procedure is:

7 (a) Necessary to the health of the person on whom it is performed and is
8 performed by a person licensed in the place of its performance as a health
9 care provider; or

10 (b) Performed on a person in labor or who has just given birth and is
11 performed for medical purposes connected with that labor or birth by a
12 person licensed in the place of its performance as a health care provider.

13 (5) Female genital mutilation is a Class B felony.

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) As used in this section, "female genital mutilation" has the same meaning as in
17 Section 1 of this Act.

18 (2) The Department for Public Health in the Cabinet for Health and Family Services
19 shall:

20 (a) Develop and produce educational materials regarding female genital
21 mutilation, the health risks and emotional trauma inflicted by the practice
22 of female genital mutilation, and the criminal penalties for female genital
23 mutilation; and

24 (b) Disseminate the educational material produced under paragraph (a) of this
25 subsection to health care providers, teachers, law enforcement personnel,
26 immigration and refugee resettlement agencies, and any other professionals
27 or community entities who may reasonably be expected to come into contact

1 *with individuals who may be at risk of suffering female genital mutilation.*
2 **(3) The department may consult or contract with nonprofit organizations to develop**
3 **and produce the educational materials required by subsection (2) of this section.**

4 ➔Section 3. KRS 15.334 is amended to read as follows:

- 5 (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects
6 to be taught to all students attending a law enforcement basic training course that
7 include but are not limited to:
- 8 (a) Abuse, neglect, and exploitation of the elderly and other crimes against the
9 elderly, including the use of multidisciplinary teams in the investigation and
10 prosecution of crimes against the elderly;
- 11 (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined
12 in KRS 620.020, child physical and sexual abuse, and rape; child
13 development; the effects of abuse and crime on adult and child victims,
14 including the impact of abuse and violence on child development; legal
15 remedies for protection; lethality and risk issues; profiles of offenders and
16 offender treatment; model protocols for addressing domestic violence, rape,
17 pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;
18 available community resources and victim services; and reporting
19 requirements. This training shall be developed in consultation with legal,
20 victim services, victim advocacy, and mental health professionals with
21 expertise in domestic violence, child abuse, and rape. Training in recognizing
22 pediatric abusive head trauma may be designed in collaboration with
23 organizations and agencies that specialize in the prevention and recognition of
24 pediatric abusive head trauma approved by the secretary of the Cabinet for
25 Health and Family Services;
- 26 (c) Human immunodeficiency virus infection and acquired immunodeficiency
27 virus syndrome;

- 1 (d) Identification and investigation of, responding to, and reporting bias-related
2 crime, victimization, or intimidation that is a result of or reasonably related to
3 race, color, religion, sex, or national origin;
- 4 (e) The characteristics and dynamics of human trafficking, state and federal laws
5 relating to human trafficking, the investigation of cases involving human
6 trafficking, including but not limited to screening for human trafficking, and
7 resources for assistance to the victims of human trafficking;~~and~~
- 8 (f) Beginning January 1, 2017, the council shall require that a law enforcement
9 basic training course include at least eight (8) hours of training relevant to
10 sexual assault; and
- 11 (g) Education on female genital mutilation as defined in Section 1 of this Act,
12 including the risk factors associated with female genital mutilation, the
13 criminal penalties for committing female genital mutilation, and the
14 psychological and health effects on a victim of female genital mutilation.
- 15 (2) (a) The council shall develop and approve mandatory in-service training courses
16 to be presented to all certified peace officers. The council may promulgate
17 administrative regulations in accordance with KRS Chapter 13A setting forth
18 the deadlines by which all certified peace officers shall attend the mandatory
19 in-service training courses.
- 20 (b) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual
21 assault investigation training course. After January 1, 2019, agencies shall
22 maintain officers on staff who have completed the forty (40) hour sexual
23 assault investigation training course in accordance with the following:
- 24 1. Agencies with more than ten (10) but fewer than twenty-one (21) full-
25 time officers shall maintain one (1) officer who has completed the forty
26 (40) hour sexual assault investigation training course;
- 27 2. Agencies with twenty-one (21) or more but fewer than fifty-one (51)

1 full-time officers shall maintain at least two (2) officers who have
2 completed the forty (40) hour sexual assault investigation training
3 course; and

4 3. Agencies with fifty-one (51) or more full-time officers shall maintain at
5 least four (4) officers who have completed the sexual assault
6 investigation course.

7 (c) An agency shall not make an officer directly responsible for the investigation
8 or processing of sexual assault offenses unless that officer has completed the
9 forty (40) hour sexual assault investigation training course.

10 (d) The council may, upon application by any agency, grant an exemption from
11 the training requirements set forth in paragraph (b) of this subsection if that
12 agency, by limitations arising from its scope of authority, does not conduct
13 sexual assault investigations.

14 (e) Any agency failing to comply with paragraph (b) or (c) of this subsection
15 shall, from the date the noncompliance commences, have one (1) year to
16 reestablish the minimum number of trained officers required.

17 (3) The Justice and Public Safety Cabinet shall provide training on the subjects of
18 domestic violence and abuse and may do so utilizing currently available technology.
19 All certified peace officers shall be required to complete this training at least once
20 every two (2) years.

21 (4) The council shall promulgate administrative regulations in accordance with KRS
22 Chapter 13A to establish mandatory basic training and in-service training courses.

23 ➔Section 4. KRS 311.595 is amended to read as follows:

24 If the power has not been transferred by statute to some other board, commission, or
25 agency of this state, the board may deny an application or reregistration for a license;
26 place a licensee on probation for a period not to exceed five (5) years; suspend a license
27 for a period not to exceed five (5) years; limit or restrict a license for an indefinite period;

1 or revoke any license heretofore or hereafter issued by the board, upon proof that the
2 licensee has:

- 3 (1) Knowingly made or presented, or caused to be made or presented, any false,
4 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in
5 connection with an application for a license or permit;
- 6 (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion,
7 or conspiracy in connection with an examination for a license;
- 8 (3) Committed, procured, or aided in the procurement of an unlawful abortion,
9 including a partial-birth abortion or an abortion in violation of KRS 311.731;
- 10 (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or
11 without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if
12 in accordance with KRS Chapter 335B;
- 13 (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a
14 patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or
15 been found by the board to have had sexual contact as defined in KRS 510.010(7)
16 with a patient while the patient was under the care of the physician;
- 17 (6) Become addicted to a controlled substance;
- 18 (7) Become a chronic or persistent alcoholic;
- 19 (8) Been unable or is unable to practice medicine according to acceptable and
20 prevailing standards of care by reason of mental or physical illness or other
21 condition including but not limited to physical deterioration that adversely affects
22 cognitive, motor, or perceptive skills, or by reason of an extended absence from the
23 active practice of medicine;
- 24 (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely
25 to deceive, defraud, or harm the public or any member thereof;
- 26 (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false
27 statement in any document executed in connection with the practice of his

- 1 profession;
- 2 (11) Employed, as a practitioner of medicine or osteopathy in the practice of his
3 profession in this state, any person not duly licensed or otherwise aided, assisted, or
4 abetted the unlawful practice of medicine or osteopathy or any other healing art;
- 5 (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the
6 violation of, or conspired to violate any provision or term of any medical practice
7 act, including but not limited to the code of conduct promulgated by the board under
8 KRS 311.601 or any other valid regulation of the board;
- 9 (13) Violated any agreed order, letter of agreement, final order, or emergency order
10 issued by the board;
- 11 (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a
12 false or assumed name, or impersonated another practitioner of a like, similar, or
13 different name;
- 14 (15) Obtained a fee or other thing of value on the fraudulent representation that a
15 manifestly incurable condition could be cured;
- 16 (16) Willfully violated a confidential communication;
- 17 (17) Had his license to practice medicine or osteopathy in any other state, territory, or
18 foreign nation revoked, suspended, restricted, or limited or has been subjected to
19 other disciplinary action by the licensing authority thereof. This subsection shall not
20 require relitigation of the disciplinary action;
- 21 (18) Failed or refused, without legal justification, to practice medicine in a rural area of
22 this state in violation of a valid medical scholarship loan contract with the trustees
23 of the rural Kentucky medical scholarship fund;
- 24 (19) Given or received, directly or indirectly, from any person, firm, or corporation, any
25 fee, commission, rebate, or other form of compensation for sending, referring, or
26 otherwise inducing a person to communicate with a person licensed under KRS
27 311.530 to 311.620 in his professional capacity or for any professional services not

1 actually and personally rendered; provided, however, that nothing contained in this
2 subsection shall prohibit persons holding valid and current licenses under KRS
3 311.530 to 311.620 from practicing medicine in partnership or association or in a
4 professional service corporation authorized by KRS Chapter 274, as now or
5 hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees
6 and moneys received by them or by the partnership, corporation, or association in
7 accordance with the partnership agreement or the policies of the board of directors
8 of the corporation or association. Nothing contained in this subsection shall
9 abrogate the right of two (2) or more persons holding valid and current licenses
10 under KRS 311.530 to 311.620 to receive adequate compensation for concurrently
11 rendering professional care to a single patient and divide a fee, if the patient has full
12 knowledge of this division and if the division is made in proportion to the services
13 performed and responsibility assumed by each;

14 (20) Been removed, suspended, expelled, or disciplined by any professional medical
15 association or society when the action was based upon what the association or
16 society found to be unprofessional conduct, professional incompetence, malpractice,
17 or a violation of any provision of KRS Chapter 311. This subsection shall not
18 require relitigation of the disciplinary action;

19 (21) Been disciplined by a licensed hospital or medical staff of the hospital, including
20 removal, suspension, limitation of hospital privileges, failing to renew privileges for
21 cause, resignation of privileges under pressure or investigation, or other disciplinary
22 action if the action was based upon what the hospital or medical staff found to be
23 unprofessional conduct, professional incompetence, malpractice, or a violation of
24 any provisions of KRS Chapter 311. This subsection shall not require relitigation of
25 the disciplinary action;

26 (22) Failed to comply with the requirements of KRS 213.101, 311.782, or 311.783 or
27 failed to submit to the Vital Statistics Branch in accordance with a court order a

1 complete report as described in KRS 213.101;

2 (23) Failed to comply with any of the requirements regarding making or maintaining
3 medical records or documents described in KRS 311.990 or 413.140;~~[-or]~~

4 (24) Failed to comply with the requirements of KRS 213.101 or 311.990;or

5 **(25) Been convicted of female genital mutilation under Section 1 of this Act, which**
6 **shall result in mandatory revocation of a license.**

7 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO
8 READ AS FOLLOWS:

9 **(1) A civil action for recovery of damages for injury or illness suffered as a result of**
10 **female genital mutilation as defined in Section 1 of this Act shall be brought**
11 **within ten (10) years:**

12 **(a) Of the procedure being performed; or**

13 **(b) After the victim attains the age of eighteen (18) years.**

14 **(2) The court may award actual, compensatory, and punitive damages, and any other**
15 **appropriate relief.**

16 **(3) Treble damages may be awarded if the plaintiff proves the defendant's acts were**
17 **willful and malicious.**

18 ➔Section 6. KRS 600.020 is amended to read as follows:

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

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

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

25 1. Inflicts or allows to be inflicted upon the child physical or emotional
26 injury as defined in this section by other than accidental means;

27 2. Creates or allows to be created a risk of physical or emotional injury as

- 1 defined in this section to the child by other than accidental means;
- 2 3. Engages in a pattern of conduct that renders the parent incapable of
- 3 caring for the immediate and ongoing needs of the child, including but
- 4 not limited to parental incapacity due to a substance use disorder as
- 5 defined in KRS 222.005;
- 6 4. Continuously or repeatedly fails or refuses to provide essential parental
- 7 care and protection for the child, considering the age of the child;
- 8 5. Commits or allows to be committed an act of sexual abuse, sexual
- 9 exploitation, or prostitution upon the child;
- 10 6. Creates or allows to be created a risk that an act of sexual abuse, sexual
- 11 exploitation, or prostitution will be committed upon the child;
- 12 7. Abandons or exploits the child;
- 13 8. Does not provide the child with adequate care, supervision, food,
- 14 clothing, shelter, and education or medical care necessary for the child's
- 15 well-being. A parent or other person exercising custodial control or
- 16 supervision of the child legitimately practicing the person's religious
- 17 beliefs shall not be considered a negligent parent solely because of
- 18 failure to provide specified medical treatment for a child for that reason
- 19 alone. This exception shall not preclude a court from ordering necessary
- 20 medical services for a child; ~~or~~
- 21 9. Fails to make sufficient progress toward identified goals as set forth in
- 22 the court-approved case plan to allow for the safe return of the child to
- 23 the parent that results in the child remaining committed to the cabinet
- 24 and remaining in foster care for fifteen (15) cumulative months out of
- 25 forty-eight (48) months; or
- 26 **10. Commits or allows female genital mutilation as defined in Section 1 of**
- 27 **this Act to be committed; or**

- 1 (b) A person twenty-one (21) years of age or older commits or allows to be
2 committed an act of sexual abuse, sexual exploitation, or prostitution upon a
3 child less than sixteen (16) years of age;
- 4 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
5 675(11);
- 6 (3) "Aggravated circumstances" means the existence of one (1) or more of the
7 following conditions:
- 8 (a) The parent has not attempted or has not had contact with the child for a period
9 of not less than ninety (90) days;
- 10 (b) The parent is incarcerated and will be unavailable to care for the child for a
11 period of at least one (1) year from the date of the child's entry into foster care
12 and there is no appropriate relative placement available during this period of
13 time;
- 14 (c) The parent has sexually abused the child and has refused available treatment;
- 15 (d) The parent has been found by the cabinet to have engaged in abuse of the
16 child that required removal from the parent's home two (2) or more times in
17 the past two (2) years; or
- 18 (e) The parent has caused the child serious physical injury;
- 19 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
20 the reasonable directives of his or her parents, legal guardian, or person exercising
21 custodial control or supervision other than a state agency, which behavior results in
22 danger to the child or others, and which behavior does not constitute behavior that
23 would warrant the filing of a petition under KRS Chapter 645;
- 24 (5) "Beyond the control of school" means any child who has been found by the court to
25 have repeatedly violated the lawful regulations for the government of the school as
26 provided in KRS 158.150, and as documented in writing by the school as a part of
27 the school's petition or as an attachment to the school's petition. The petition or

- 1 attachment shall describe the student's behavior and all intervention strategies
2 attempted by the school;
- 3 (6) "Boarding home" means a privately owned and operated home for the boarding and
4 lodging of individuals which is approved by the Department of Juvenile Justice or
5 the cabinet for the placement of children committed to the department or the
6 cabinet;
- 7 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 8 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,
9 and who have completed a course of education and training in juvenile detention
10 developed and approved by, the Department of Juvenile Justice after consultation
11 with other appropriate state agencies;
- 12 (9) "Child" means any person who has not reached his or her eighteenth birthday,
13 unless otherwise provided;
- 14 (10) "Child-caring facility" means any facility or group home other than a state facility,
15 Department of Juvenile Justice contract facility or group home, or one certified by
16 an appropriate agency as operated primarily for educational or medical purposes,
17 providing residential care on a twenty-four (24) hour basis to children not related by
18 blood, adoption, or marriage to the person maintaining the facility;
- 19 (11) "Child-placing agency" means any agency, other than a state agency, which
20 supervises the placement of children in foster family homes or child-caring facilities
21 or which places children for adoption;
- 22 (12) "Clinical treatment facility" means a facility with more than eight (8) beds
23 designated by the Department of Juvenile Justice or the cabinet for the treatment of
24 mentally ill children. The treatment program of such facilities shall be supervised by
25 a qualified mental health professional;
- 26 (13) "Commitment" means an order of the court which places a child under the custodial
27 control or supervision of the Cabinet for Health and Family Services, Department of

- 1 Juvenile Justice, or another facility or agency until the child attains the age of
2 eighteen (18) unless otherwise provided by law;
- 3 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
4 operated, or permitted to operate by the Department of Juvenile Justice or the
5 cabinet, which is located within a reasonable proximity of the child's family and
6 home community, which affords the child the opportunity, if a Kentucky resident, to
7 continue family and community contact;
- 8 (15) "Complaint" means a verified statement setting forth allegations in regard to the
9 child which contain sufficient facts for the formulation of a subsequent petition;
- 10 (16) "Court" means the juvenile session of District Court unless a statute specifies the
11 adult session of District Court or the Circuit Court;
- 12 (17) "Court-designated worker" means that organization or individual delegated by the
13 Administrative Office of the Courts for the purposes of placing children in
14 alternative placements prior to arraignment, conducting preliminary investigations,
15 and formulating, entering into, and supervising diversion agreements and
16 performing such other functions as authorized by law or court order;
- 17 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 18 (19) "Department" means the Department for Community Based Services;
- 19 (20) "Dependent child" means any child, other than an abused or neglected child, who is
20 under improper care, custody, control, or guardianship that is not due to an
21 intentional act of the parent, guardian, or person exercising custodial control or
22 supervision of the child;
- 23 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
24 conduct subject to the jurisdiction of the court who requires a restricted or closely
25 supervised environment for his or her own or the community's protection;
- 26 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
27 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any

- 1 period of detention prior to adjudication;
- 2 (23) "Diversion agreement" means a mechanism designed to hold a child accountable for
3 his or her behavior and, if appropriate, securing services to serve the best interest of
4 the child and to provide redress for that behavior without court action and without
5 the creation of a formal court record;
- 6 (24) "Eligible youth" means a person who:
- 7 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 8 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 9 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
10 order to participate in state or federal educational programs or to establish
11 independent living arrangements;
- 12 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
13 homelike facility which provides temporary or emergency care of children and
14 adequate staff and services consistent with the needs of each child;
- 15 (26) "Emotional injury" means an injury to the mental or psychological capacity or
16 emotional stability of a child as evidenced by a substantial and observable
17 impairment in the child's ability to function within a normal range of performance
18 and behavior with due regard to his or her age, development, culture, and
19 environment as testified to by a qualified mental health professional;
- 20 (27) "Evidence-based practices" means policies, procedures, programs, and practices
21 proven by scientific research to reliably produce reductions in recidivism;
- 22 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
23 to a child, but who has an emotionally significant relationship with the child;
- 24 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 25 (30) "Foster family home" means a private home in which children are placed for foster
26 family care under supervision of the cabinet or a licensed child-placing agency;
- 27 (31) "Graduated sanction" means any of a continuum of accountability measures,

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

- 3 (a) Electronic monitoring;
- 4 (b) Drug and alcohol screening, testing, or monitoring;
- 5 (c) Day or evening reporting centers;
- 6 (d) Reporting requirements;
- 7 (e) Community service; and
- 8 (f) Rehabilitative interventions such as family counseling, substance abuse
9 treatment, restorative justice programs, and behavioral or mental health
10 treatment;

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

14 (33) "Habitual truant" means any child who has been found by the court to have been
15 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a
16 one (1) year period;

17 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
18 public facility, health care facility, or part thereof, which is approved by the cabinet
19 to treat children;

20 (35) "Independent living" means those activities necessary to assist a committed child to
21 establish independent living arrangements;

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

27 (37) "Intentionally" means, with respect to a result or to conduct described by a statute

- 1 which defines an offense, that the actor's conscious objective is to cause that result
2 or to engage in that conduct;
- 3 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
4 the program developed on the child's behalf is no more harsh, hazardous, or
5 intrusive than necessary; or involves no restrictions on physical movements nor
6 requirements for residential care except as reasonably necessary for the protection
7 of the child from physical injury; or protection of the community, and is conducted
8 at the suitable available facility closest to the child's place of residence to allow for
9 appropriate family engagement;
- 10 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
11 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 12 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
13 serious or critical condition;
- 14 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 15 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who
16 has not been otherwise charged with a status or public offense;
- 17 (43) "Nonsecure facility" means a facility which provides its residents access to the
18 surrounding community and which does not rely primarily on the use of physically
19 restricting construction and hardware to restrict freedom;
- 20 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a
21 child's own home, where a child may be temporarily placed pending further court
22 action. Children before the court in a county that is served by a state operated secure
23 detention facility, who are in the detention custody of the Department of Juvenile
24 Justice, and who are placed in a nonsecure alternative by the Department of
25 Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 26 (45) "Out-of-home placement" means a placement other than in the home of a parent,
27 relative, or guardian, in a boarding home, clinical treatment facility, community-

- 1 based facility, detention facility, emergency shelter, fictive kin home, foster family
2 home, hospital, nonsecure facility, physically secure facility, residential treatment
3 facility, or youth alternative center;
- 4 (46) "Parent" means the biological or adoptive mother or father of a child;
- 5 (47) "Person exercising custodial control or supervision" means a person or agency that
6 has assumed the role and responsibility of a parent or guardian for the child, but that
7 does not necessarily have legal custody of the child;
- 8 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,
9 which initiates formal court involvement in the child's case;
- 10 (49) "Physical injury" means substantial physical pain or any impairment of physical
11 condition;
- 12 (50) "Physically secure facility" means a facility that relies primarily on the use of
13 construction and hardware such as locks, bars, and fences to restrict freedom;
- 14 (51) "Public offense action" means an action, excluding contempt, brought in the interest
15 of a child who is accused of committing an offense under KRS Chapter 527 or a
16 public offense which, if committed by an adult, would be a crime, whether the same
17 is a felony, misdemeanor, or violation, other than an action alleging that a child
18 sixteen (16) years of age or older has committed a motor vehicle offense;
- 19 (52) "Qualified mental health professional" means:
- 20 (a) A physician licensed under the laws of Kentucky to practice medicine or
21 osteopathy, or a medical officer of the government of the United States while
22 engaged in the performance of official duties;
- 23 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
24 osteopathy, or a medical officer of the government of the United States while
25 engaged in the practice of official duties, and who is certified or eligible to
26 apply for certification by the American Board of Psychiatry and Neurology,
27 Inc.;

- 1 (c) A psychologist with the health service provider designation, a psychological
2 practitioner, a certified psychologist, or a psychological associate licensed
3 under the provisions of KRS Chapter 319;
- 4 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
5 an accredited institution and two (2) years of clinical experience with mentally
6 ill persons, or a licensed registered nurse with a bachelor's degree in nursing
7 from an accredited institution who is certified as a psychiatric and mental
8 health nurse by the American Nurses Association and who has three (3) years
9 of inpatient or outpatient clinical experience in psychiatric nursing and who is
10 currently employed by a hospital or forensic psychiatric facility licensed by
11 the Commonwealth or a psychiatric unit of a general hospital or a regional
12 comprehensive care center;
- 13 (e) A licensed clinical social worker licensed under the provisions of KRS
14 335.100, or a certified social worker licensed under the provisions of KRS
15 335.080 with three (3) years of inpatient or outpatient clinical experience in
16 psychiatric social work and currently employed by a hospital or forensic
17 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a
18 general hospital or a regional comprehensive care center;
- 19 (f) A marriage and family therapist licensed under the provisions of KRS 335.300
20 to 335.399 with three (3) years of inpatient or outpatient clinical experience in
21 psychiatric mental health practice and currently employed by a hospital or
22 forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit
23 of a general hospital, or a regional comprehensive care center;
- 24 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
25 335.599 with three (3) years of inpatient or outpatient clinical experience in
26 psychiatric mental health practice and currently employed by a hospital or
27 forensic facility licensed by the Commonwealth, a psychiatric unit of a general

1 hospital, or a regional comprehensive care center; or

2 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
3 (1) of the following requirements:

4 1. Provides documentation that he or she has completed a psychiatric
5 residency program for physician assistants;

6 2. Has completed at least one thousand (1,000) hours of clinical experience
7 under a supervising physician, as defined by KRS 311.840, who is a
8 psychiatrist and is certified or eligible for certification by the American
9 Board of Psychiatry and Neurology, Inc.;

10 3. Holds a master's degree from a physician assistant program accredited
11 by the Accreditation Review Commission on Education for the
12 Physician Assistant or its predecessor or successor agencies, is
13 practicing under a supervising physician as defined by KRS 311.840,
14 and:

15 a. Has two (2) years of clinical experience in the assessment,
16 evaluation, and treatment of mental disorders; or

17 b. Has been employed by a hospital or forensic psychiatric facility
18 licensed by the Commonwealth or a psychiatric unit of a general
19 hospital or a private agency or company engaged in the provision
20 of mental health services or a regional community program for
21 mental health and individuals with an intellectual disability for at
22 least two (2) years; or

23 4. Holds a bachelor's degree, possesses a current physician assistant
24 certificate issued by the board prior to July 15, 2002, is practicing under
25 a supervising physician as defined by KRS 311.840, and:

26 a. Has three (3) years of clinical experience in the assessment,
27 evaluation, and treatment of mental disorders; or

1 b. Has been employed by a hospital or forensic psychiatric facility
2 licensed by the Commonwealth or a psychiatric unit of a general
3 hospital or a private agency or company engaged in the provision
4 of mental health services or a regional community program for
5 mental health and individuals with an intellectual disability for at
6 least three (3) years;

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

9 (54) "Residential treatment facility" means a facility or group home with more than eight
10 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
11 treatment of children;

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

16 (56) "Risk and needs assessment" means an actuarial tool scientifically proven to
17 identify specific factors and needs that are related to delinquent and noncriminal
18 misconduct;

19 (57) "School personnel" means those certified persons under the supervision of the local
20 public or private education agency;

21 (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;

22 (59) "Secure juvenile detention facility" means any physically secure facility used for the
23 secure detention of children other than any facility in which adult prisoners are
24 confined;

25 (60) "Serious physical injury" means physical injury which creates a substantial risk of
26 death or which causes serious and prolonged disfigurement, prolonged impairment
27 of health, or prolonged loss or impairment of the function of any bodily member or

1 organ;

2 (61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions
3 in which the parent, guardian, person in a position of authority or special trust, as
4 defined in KRS 532.045, or other person having custodial control or supervision of
5 the child or responsibility for his or her welfare, uses or allows, permits, or
6 encourages the use of the child for the purposes of the sexual stimulation of the
7 perpetrator or another person;

8 (62) "Sexual exploitation" includes but is not limited to a situation in which a parent,
9 guardian, person in a position of authority or special trust, as defined in KRS
10 532.045, or other person having custodial control or supervision of a child or
11 responsible for his or her welfare, allows, permits, or encourages the child to engage
12 in an act which constitutes prostitution under Kentucky law; or a parent, guardian,
13 person in a position of authority or special trust, as defined in KRS 532.045, or
14 other person having custodial control or supervision of a child or responsible for his
15 or her welfare, allows, permits, or encourages the child to engage in an act of
16 obscene or pornographic photographing, filming, or depicting of a child as provided
17 for under Kentucky law;

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

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

25 (65) (a) "Status offense action" is any action brought in the interest of a child who is
26 accused of committing acts, which if committed by an adult, would not be a
27 crime. Such behavior shall not be considered criminal or delinquent and such

1 children shall be termed status offenders. Status offenses shall include:

- 2 1. Beyond the control of school or beyond the control of parents;
- 3 2. Habitual Runaway;
- 4 3. Habitual truant;
- 5 4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
- 6 5. Alcohol offenses as provided in KRS 244.085.

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

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

12 (67) "Transitional living support" means all benefits to which an eligible youth is
13 entitled upon being granted extended or reinstated commitment to the cabinet by the
14 court;

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

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

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

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

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

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

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

1 record of the court proceedings; and

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

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

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

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

12 ➔Section 7. KRS 620.030 is amended to read as follows:

13 (1) Any person who knows or has reasonable cause to believe that a child is dependent,
14 neglected, or abused shall immediately cause an oral or written report to be made to
15 a local law enforcement agency or to the Department of Kentucky State Police, the
16 cabinet or its designated representative, the Commonwealth's attorney, or the county
17 attorney by telephone or otherwise. Any supervisor who receives from an employee
18 a report of suspected dependency, neglect, or abuse shall promptly make a report to
19 the proper authorities for investigation. If the cabinet receives a report of abuse or
20 neglect allegedly committed by a person other than a parent, guardian, fictive kin,
21 person in a position of authority, person in a position of special trust, or person
22 exercising custodial control or supervision, the cabinet shall refer the matter to the
23 Commonwealth's attorney or the county attorney and the local law enforcement
24 agency or the Department of Kentucky State Police. Nothing in this section shall
25 relieve individuals of their obligations to report.

26 (2) Any person, including but not limited to a physician, osteopathic physician, nurse,
27 teacher, school personnel, social worker, coroner, medical examiner, child-caring

1 personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical
2 technician, paramedic, health professional, mental health professional, peace
3 officer, or any organization or agency for any of the above, who knows or has
4 reasonable cause to believe that a child is dependent, neglected, or abused,
5 regardless of whether the person believed to have caused the dependency, neglect,
6 or abuse is a parent, guardian, fictive kin, person in a position of authority, person in
7 a position of special trust, person exercising custodial control or supervision, or
8 another person, or who has attended such child as a part of his or her professional
9 duties shall, if requested, in addition to the report required in subsection (1) or (3) of
10 this section, file with the local law enforcement agency or the Department of
11 Kentucky State Police, the cabinet or its designated representative, the
12 Commonwealth's attorney, or county attorney within forty-eight (48) hours of the
13 original report a written report containing:

- 14 (a) The names and addresses of the child and his or her parents or other persons
15 exercising custodial control or supervision;
- 16 (b) The child's age;
- 17 (c) The nature and extent of the child's alleged dependency, neglect, or abuse,
18 including any previous charges of dependency, neglect, or abuse, to this child
19 or his or her siblings;
- 20 (d) The name and address of the person allegedly responsible for the abuse or
21 neglect; and
- 22 (e) Any other information that the person making the report believes may be
23 helpful in the furtherance of the purpose of this section.

24 (3) Any person who knows or has reasonable cause to believe that a child is a victim of
25 human trafficking as defined in KRS 529.010 shall immediately cause an oral or
26 written report to be made to a local law enforcement agency or the Department of
27 Kentucky State Police; or the cabinet or its designated representative; or the

1 Commonwealth's attorney or the county attorney; by telephone or otherwise. This
2 subsection shall apply regardless of whether the person believed to have caused the
3 human trafficking of the child is a parent, guardian, fictive kin, person in a position
4 of authority, person in a position of special trust, or person exercising custodial
5 control or supervision.

6 **(4) Any person who knows or has reasonable cause to believe that a child is a victim**
7 **of female genital mutilation as defined in Section 1 of this Act shall immediately**
8 **cause an oral or written report to be made by telephone or otherwise to:**

9 **(a) A local law enforcement agency or the Department of Kentucky State**
10 **Police;**

11 **(b) The cabinet or its designated representative; or**

12 **(c) The Commonwealth's attorney or the county attorney.**

13 **This subsection shall apply regardless of whether the person believed to have**
14 **caused the female genital mutilation of the child is a parent, guardian, or person**
15 **exercising custodial control or supervision.**

16 ~~(5)(4)~~ Neither the husband-wife nor any professional-client/patient privilege, except
17 the attorney-client and clergy-penitent privilege, shall be a ground for refusing to
18 report under this section or for excluding evidence regarding a dependent,
19 neglected, or abused child or the cause thereof, in any judicial proceedings resulting
20 from a report pursuant to this section. This subsection shall also apply in any
21 criminal proceeding in District or Circuit Court regarding a dependent, neglected, or
22 abused child.

23 ~~(6)(5)~~ The cabinet upon request shall receive from any agency of the state or any
24 other agency, institution, or facility providing services to the child or his or her
25 family, such cooperation, assistance, and information as will enable the cabinet to
26 fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

27 ~~(7)(6)~~ Nothing in this section shall limit the cabinet's investigatory authority under

1 KRS 620.050 or any other obligation imposed by law.

2 ~~(8)~~~~(7)~~ Any person who intentionally violates the provisions of this section shall be
3 guilty of a:

- 4 (a) Class B misdemeanor for the first offense;
5 (b) Class A misdemeanor for the second offense; and
6 (c) Class D felony for each subsequent offense.

7 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO
8 READ AS FOLLOWS:

9 *By November 1 of each year, beginning in 2021, the Cabinet for Health and Family*
10 *Services shall submit to the Legislative Research Commission a comprehensive report*
11 *that does not identify individuals, detailing the number of reports the cabinet has*
12 *received regarding female genital mutilation as defined in Section 1 of this Act, the*
13 *number of reports in which the cabinet has investigated and determined that a child is*
14 *the victim of female genital mutilation, and the number of cases in which services were*
15 *provided.*

16 ➔Section 9. Whereas female genital mutilation is a public health and human
17 rights concern of great magnitude, an emergency is declared to exist, and this Act takes
18 effect upon its passage and approval by the Governor or upon its otherwise becoming a
19 law.