



# LEGAL TRAINING FOR Dependency, Neglect and Abuse Cases




Spring/Summer 2025

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# Dependency, Neglect and Abuse Cases



## Dependency, Neglect and Abuse Cases

Nathan Goins  
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## Foundation

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### KRS 610.010 District Court Jurisdiction

- The Juvenile session of the District Court of each county shall have exclusive jurisdiction of DNA proceedings concerning any child living or found within the county, who has not reached his/her 18<sup>th</sup> birthday.
- Family Court has concurrent jurisdiction



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KRS 23A.100

Family Court Jurisdiction

Family Court (division of Circuit Court) has the following jurisdiction:

- Dissolution of Marriage/Property Division
- Child Custody
- Visitation
- Maintenance and Support
- Termination of Parental Rights (TPR)
- Adoptions
- Domestic Violence
- Paternity
- Status
- Dependency, Neglect and Abuse cases (DNA)



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Statutory Steps in a DNA Case\*

Emergency Custody Order/Petition


Temporary Removal Hearing

Adjudication

Disposition Hearing

Reviews

\* Pre-Hearing Conferences, Motion Hearings, and other proceedings may, and are likely to, occur between each step in the case.



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Definitions

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KRS 600.020

Definition of an “Abused or Neglected Child”

(1)(a) A child whose health or welfare is harmed or threatened with harm, when his parent, guardian, person in a position of authority or special trust, or other person exercising custodial control or supervision (PECCS) of the child does the following:



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KRS 600.020

Definition of an “Abused or Neglected Child”

- Inflicts or allows to be inflicted upon the child “physical” or “emotional” injury by other than accidental means
- Creates or allows to be created a RISK of physical or emotional injury
- Engages in a pattern of conduct rendering the parent incapable of caring for the child, which may include incapacity due to alcohol or drugs



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KRS 600.020

Definition of an “Abused or Neglected Child”

- Repeatedly or continuously fails to provide care and protection for child
- Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution
- Creates or allows to be created a **RISK** of sexual abuse, sexual exploitation, or prostitution



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**KRS 600.020**

**Definition of an "Abused or Neglected Child"**

- Abandons or exploits the child
- Does not provide supervision, food, clothing, shelter, education or medical care for child (religious belief exception for medical care)
- Failed to make sufficient progress and child in care 15 of 48 months
- Commits or allows female genital mutilation as defined in KRS 508.125 to be committed



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**KRS 600.020**

**Definition of an "Abused or Neglected Child"**

(1)(b) Also, regardless of relationship to child:

- A person twenty-one (21) years of age or older commits/allows sexual abuse, exploitation, or prostitution against child under sixteen (16)



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**KRS 600.020(26)**

**Definition of "Emotional Injury"**

- Applies to abuse/neglect under KRS 600.020(1)(a)(1) & (2)
- An injury to the mental or psychological capacity or emotional stability of a child
- Must be testified to by a Qualified Mental Health Professional (QMHP) (defined in following slide)



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KRS 600.020(52)

Definition of a “Qualified Mental Health Professional”

Must be one of the following:

- Physician
- Psychiatrist
- Psychologist, psychological practitioner, or psychological associate
- Registered Nurse (RN) with Master’s Degree in psychiatric nursing
- Licensed clinical social worker (LCSW)
- Marriage and family therapist with 3 years of experience
- Credentialed professional counselor with 3 years of experience

\*See R.C. v. Commonwealth, 101 S.W.3d 897 (Ky. App. 2002)



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KRS 600.020(49)

Definition of “Physical Injury”

- Applies to abuse/neglect under KRS 600.020(1)(a)(1) & (2)
- Means “substantial physical pain or any impairment of physical condition”
- NOTE: Per KRS 620.060(1), a physical Injury does not necessarily give grounds for an emergency custody order (ECO), unless the Court finds that the injury was:
  - “Repeatedly inflicted” or
  - A “serious physical injury”



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KRS 600.020(60)

Definition of “Serious Physical Injury”

Means physical injury which:

- Creates a substantial risk of death
- Causes serious and prolonged disfigurement
- Causes prolonged impairment of health
- Prolonged loss or impairment of the function of any bodily member or organ



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**KRS 600.020(60)**

**Definition of "Serious Physical Injury"**

- Any contacts or interactions in which a person listed in KRS 600.020(1)(a) uses or allows, permits, or encourages the use of the child for the sexual stimulation of the perpetrator or another person.
- There may be some overlap with human trafficking offenses. See KRS Ch. 529



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**KRS 600.020(61)**

**Definition of "Sexual Abuse"**

- Any contacts or interactions in which a person listed in KRS 600.020(1)(a) uses or allows, permits, or encourages the use of the child for the sexual stimulation of the perpetrator or another person.
- There may be some overlap with human trafficking offenses. See KRS Ch. 529



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**KRS 600.020(20)**

**Definition of a "Dependent Child"**

- Any child, other than an abused or neglected child, who is under improper care, custody, or guardianship that is not due to an intentional act of a parent, guardian, or person exercising custodial control or supervision (PECCS) of the child
- Generally, thought to be through no fault of the parent, or it would be abuse or neglect
- A child cannot be both "Dependent" and "Abused or Neglected" See J.H. v. Com., 767 S.W.2d 330 (Ky. App. 1988)



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KRS 600.050

Children Needing Extraordinary Services

- Allows commitment if a child needs “extraordinary services” because the child is mentally or emotionally ill **OR** requires medical attention **AND:**
  - Parents cannot provide for the treatment/care
  - Inability is due primarily to parent's lack of financial means
  - Parent, guardian, or PECCS made reasonable efforts
  - Inability is not due to abuse or neglect
  - Commitment is not opposed by parent, guardian, or PECCS



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Procedure

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Statutory Steps in a DNA Case\*

Emergency Custody Order/Petition


Temporary Removal Hearing

Adjudication

Disposition Hearing

Reviews

\* Pre-Hearing Conferences, Motion Hearings, and other proceedings may, and are likely to, occur between each step in the case.



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## Emergency Custody Order

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### KRS 620.060

#### Emergency Custody Orders

The Court for the county where the child resides or will reside or where the child is present may issue an *ex parte* emergency custody order (ECO) when any of the following circumstances exist:

- Child is in danger of imminent death or serious physical injury
- Child is being sexually abused
- Parent has repeatedly inflicted or allowed physical or emotional injury (not including reasonable discipline)
- Child is in imminent danger due to parent's failure or refusal to provide for the safety or needs of the child



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### KRS 620.060

#### Emergency Custody Orders

- If an ECO is granted, the Court must hold a temporary removal hearing (TRH) within 72 hours, exclusive of weekends and holidays
- The ECO is only effective during the timeframe above
- The ECO should be served upon parent
- If temporary custody is granted at the TRH, then custody is converted from Emergency Custody to Temporary Custody



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KRS 620.060

Emergency Custody Orders

- A petition shall be filed with the Court within 72 hours of taking the child into custody
- A DNA action may be commenced by the filing of a Petition, by "any interested person" See FCRPP 19(3)



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KRS 620.070

Service of Petition and Summons

- The petition and summons shall be served by the sheriff or other person authorized to serve process (other than a Cabinet employee) on the parent or person exercising custodial control or supervision (PECCS). See FCRPP 17(2)
- If person to be served is unknown or cannot be located, the petition and summons may be served as directed by the Court including:
  - Nearest adult relative
  - Mail to last known address
  - Other service directed by the Court and reasonably calculated to give actual notice
  - Warning order may be used if other means not effective



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Temporary Removal Hearing

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### Persons involved in a DNA Action

**Parties:**

- Child
- Parent(s)
- PECCS(s)

**Interested persons (not parties, but granted rights):**

- Persons claiming to be de facto custodians (KRS 620.100(1)(c))
- Foster parents (KRS 620.360(1)(r))



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### KRS 620.100(1)

#### Appointment of Separate Counsel

- The Court shall appoint a guardian *ad litem* (GAL) for the child
- The Court shall appoint separate counsel for the parent who exercises custodial control, if indigent
- The Court shall appoint counsel for any person claiming to be a *de facto* custodian, if indigent
- The Court may appoint separate counsel for a non-parent exercising custodial control or supervision, if indigent
- The Court may appoint a Court-Appointed Special Advocate (CASA)



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### KRS 620.080

#### Temporary Removal Hearing

- Unless waived by the child and parent(s)/PECCS(s), a temporary removal hearing shall be held:
  - Within 72 hours of an ECO being granted
  - Within 10 days of the filing of the petition, if no ECO was granted
- To grant temporary custody, the Court must find, by a preponderance of evidence, there are reasonable grounds to believe that the child would be dependent, neglected or abused if returned to parent(s)
- Hearsay may be admissible for "good cause"



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KRS 620.080

Temporary Removal Hearing

Low Burden of Proof

- Preponderance of Evidence (more likely than not)
- “Reasonable Grounds to Believe”
- Child would be dependent, neglected or abused
  - “Risk of...”
- Petitioner does not have to prove “who did it”



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42 U.S.C. § 675(5)(G)

ESSENTIAL FINDINGS!!


If the child is placed with the Cabinet, or out of home under supervision of the Cabinet, the Court must determine that:

- The state made reasonable efforts to prevent or eliminate the need for removal

AND

- Continuation in, or return to, the home would be contrary to the welfare of the child

\*These findings affect Title IV-E reimbursement for the child



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KRS 620.090

Temporary Custody Order (TCO)

- If the Court finds at the TRH that it is not safe to return the child back to parents, then the Court converts the ECO to a TCO
- If the Cabinet gets custody, then the Cabinet shall place the child in the least restrictive *appropriate* placement
- The adjudication hearing must be held, and a final disposition must be made, within 45 days of the child’s removal, unless the Court finds that extending the time is in the child’s best interest



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**KRS 620.150**  
**Visitation**

- When a child is removed from his/her home, the Cabinet shall establish terms and conditions of visitation with the child and parent(s)
- If a parent is dissatisfied with the visitation schedule, they may petition the Court for review of the visitation schedule
- The Court may find the Cabinet schedule to be “arbitrary or unreasonable” and alter visitation



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**KRS 620.090(6)**  
**Grandparents and Temporary Custody Orders**

- If one grandparent is granted temporary custody, then the Court must consider grandparent visitation for any other grandparent if the Court determines that the other grandparent has a significant and viable relationship with the child as established in KRS 405.021(1)(c)
- Questions that have not been answered by law:
  - What is the standard?
  - Is a full hearing required?
  - What findings are necessary?



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**KRS 620.130**  
**Alternatives to Removal**

- The Court must consider whether there is a less restrictive alternative to removal before removing the child from the home
- If the Court orders removal, services are to be provided to the parent(s) and the child; and must be designed to promote the protection of the child and return of the child safely back home



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**KRS 620.130**

**Alternatives to Removal**

- The Cabinet shall develop a "Treatment Plan" for each child designed to meet the needs of the child, unless the Court finds aggravated circumstances (See KRS 600.020(3))



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**KRS 620.110**

**Immediate Entitlement**

- Any person aggrieved by the issuance of a temporary removal order may file a petition in Circuit Court for Immediate Entitlement to Custody
- The Circuit Court must expeditiously hold a hearing on the petition
- The original order(s) remain in effect until the Circuit Court rules on the petition



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**KRS 620.350**

**Abandoned Newborn Infant**

- Any person aggrieved by the issuance of a temporary removal order may file a petition in Circuit Court for Immediate Entitlement to Custody
- The Circuit Court must expeditiously hold a hearing on the petition
- The original order(s) remain in effect until the Circuit Court rules on the petition



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### Tampering with Drug Tests

- KRS 516.108 - Criminal Simulation in the First Degree (Class D Felony)
  - "Knowingly manufactures, markets, or distributes any product which is intended to defraud a test designed to detect alcohol or a controlled substance"
- KRS 516.110 Criminal Simulation in the Second Degree (Class A Misdemeanor)
  - "Uses any product to alter the results of a test designed to detect alcohol or a controlled substance" or
  - "Possesses an object so simulated with knowledge of its character"
- KRS 524.100 Tampering with Physical Evidence (Class D Felony)
  - "Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence knowing it to be fabricated or altered"



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### Adjudication Hearing

What is the Truth or Falsity of the Allegations in the Complaint?

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### KRS 620.100 Adjudication Hearings

- The Civil Rules apply
- The Court must determine whether the child was dependent, neglected or abused at the time the petition was filed
- The burden of proof is on the complainant to prove DNA by a preponderance of the evidence



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**KRS 620.100**  
**Adjudication Hearings**

- The Civil Rules apply
- The Court must determine whether the child was dependent, neglected or abused at the time the petition was filed
- The burden of proof is on the complainant to prove DNA by a preponderance of the evidence



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**KRS 620.100**  
**Adjudication Hearings**

- All cases involving children in DNA Court shall be heard by the Court – not a jury
- The child, parents, and PECCS each have a right to confront and cross-examine witnesses
- Foster parents, pre-adoptive parents, and relatives providing care to the child have a right to notice, to appear, and to be heard



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**Disposition Hearing**  
**What is in the Best Interest of the Child?**

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**KRS 620.140**  
**Dispositional Alternatives**

- Informal adjustment (dismissal)
- Return the child to home of removal with protective orders such as:
  - Protective orders prohibiting custodians from action or requiring Cabinet supervision
  - Supervision of the child by the Cabinet
  - Any orders authorized in law for DVO (KRS 403.715-785) and IPO (KRS Chapter 456)
- Removal of the child to custody of an individual or agency
- Commitment of the child to the custody of the Cabinet
- Extend or reinstate the child's commitment if requested by the child before he/she turns 19 years of age



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**KRS 620.027**  
**Permanent Custody**

- District Courts have concurrent jurisdiction with Circuit Court to determine permanent child custody and visitation in DNA cases
- "In order to grant permanent custody via a custody decree in a dependency action arising under KRS Chapter 620, the court must comply with the standards set out by the General Assembly in KRS 403.270(2)[.]” *N.L. v. W.F.*, 368 S.W.3d 136, 148 (Ky. App. 2012).



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**KRS 605.090(3)**  
**Procedure for Removing Committed Children**

- Any child committed to the Cabinet and placed back in the home of the parents may be removed by the Cabinet without Court order if there is reasonable grounds to believe that the child is:
  - In danger of imminent death or imminent serious physical injury
  - Being sexually abused
  - **AND** parents are unable or unwilling to protect the child
- Within 72 hours of removal, the Cabinet shall petition the Court for an expeditious hearing for review of the agency removal
- If the situation is not as serious, the Cabinet must file a petition and obtain Court approval prior to removal



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KRS 610.125

Annual Permanency Reviews

- If a child enters foster care, the Court shall conduct a permanency review hearing **within 12 months** and every 12 months that custody and out-of-home placement continues
- The Court shall address the permanency goal:
  - Should the child return home?
  - Should the child be placed for adoption?
  - Should the child be placed with a permanent custodian?
  - If the child is 16 or older, has the Cabinet documented a compelling reason why it is in the best interest of the child to be placed in another planned permanent living arrangement?



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CASE LAW

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Parent / Sex Offender

R.S., et al. v. Commonwealth of Kentucky,  
Cabinet for Health and Family Services, 2016-CA-001764-ME (Ky. App. Sept. 29, 2017)

- The Cabinet brought DNA action on behalf of sons as father was a registered sex offender. Their action was not precipitated by any violation of the law. The family court entered orders requiring all contact between sons and father to be supervised.
- **The Court of Appeals** agreed with parents, reversing the family court and remanding the case to be dismissed holding that "a finding of neglect cannot be sustained solely on a child living with a biological parent who is a registered sex offender." The Cabinet presented no facts indicating any actual harm or any facts indicating a risk or threat of harm to the children. Thus, there was no basis for the family court "to further interfere in the rights of mother and father to rear their two sons."

Cabinet for Health & Family Services v. R.S.,  
570 S.W.3d 538 (Ky. 2018)

- **The Kentucky Supreme Court** reversed the decision of the Court of Appeals and reinstated the trial court's decision.
- However, the Court declined to set a bright line test and specifically stated that these types of cases must be evaluated individually. The Supreme Court did not find that the trial court abused its discretion considering the father's prior criminal acts which were committed against an underage family member, and his inability to complete probation supervision successfully.



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## Consideration for Fictive Kin Placement

**G.P. v. Cabinet for Health and Family Services, 572 S.W.3d 484 (Ky. App. 2019)**

- **The Trial Court** committed the minor child to the Cabinet. Father argued the trial court erred when it failed to place the minor child with Stepmother, or, alternatively, with one of three blood relatives. Stepmother was not biologically related to the minor child and Father failed to present any evidence that Stepmother had standing to seek custody of the minor child. One of the three blood relatives proposed by Father was living with a drug trafficker and the two remaining blood relatives proposed by Father were drug traffickers.
- **The Court of Appeals** upheld the trial court's decision of placing the minor child with Foster Mother rather than with Stepmother or any of the three blood relatives proposed by Father. Father did not produce any evidence establishing Stepmother had standing to seek custody and, although the Cabinet must consider relative placement over other options, it is not required to choose relative placement.



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## Responsibility of Accused

**Cabinet for Health and Family Services, Commonwealth of Kentucky on Behalf of the Minor Child C.R. v. C.B., 556 S.W.3d 568 (Ky. 2018)**

- **The Trial Court** found the child born with drugs in her system to be neglected by Father who had a history of drug addiction, was not compliant with his case plan with the Cabinet, and had a previous involuntary termination of parental rights case involving other children.
- **The Court of Appeals** found the child could not be found to be neglected because Father had never exercised "custodial control or supervision" over the child, as the child had previously been placed in the care of her maternal grandmother.
- **The Kentucky Supreme Court** held that a parent does not have to be exercising "custodial control or supervision" to be found to have neglected or abused a child.



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## Educational Neglect

**Cabinet for Health & Family Services v. K.S., 2019-SC-0692-DGE (Ky. Oct. 29, 2020)**

- The benefit of expert testimony depends upon of the facts presented in a given case. Thus, the question of whether due process requires a court-appointed expert is best left to the judgment of the trial court, subject to appellate review. Cabinet for Health & Family Services v. K.S., 610 S.W.3d 205, 216 (Ky. 2020).
- In Kentucky, a trial court reviewing a request for expert assistance must consider (1) whether the request was pleaded with specificity; (2) whether the funding is reasonably necessary; and (3) whether due process weighs in favor of appointing an expert. Cabinet for Health & Family Services v. K.S., 610 S.W.3d 205, 216 (Ky. 2020).



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### Right to Expert Funds

**Commonwealth v. H.K., 2019-CA-000775 (Ky. App. Dec. 20, 2019)**

The Commonwealth appealed from a summary dismissal of a DNA petition filed due to excessive absenteeism from school by a kindergartener on the basis that the facts presented did not meet the statutory requirements for abuse or neglect. By a 2-1 vote, the Court of Appeals affirmed, holding that there can be no educational neglect of a five-year-old for excessive absenteeism pursuant to KRS 600.020(1)(a)(8) because school attendance for a child of that age is optional rather than mandatory pursuant to KRS 158.030(2).



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### Intent not required by KRS 600.020(1)?

**Cabinet for Health & Family Servs. v. P.W., 582 S.W.3d 887 (Ky. 2019); and K.W.W. v. Cabinet for Health and Family Services et al., 2018-CA-000028-ME and 2018-CA-000029-ME (Ky. App. Nov. 15, 2019)**

**The Supreme Court** reversed the determination that sufficient evidence did not exist for the termination of the mother's rights and remanded to the Court of Appeals to determine whether sufficient evidence supported the trial court's finding that the remaining requirements of KRS 625.090 were met, holding:

- (1) Under the plain language of KRS 600.020(1) and relevant case law, one need not intend to abuse or neglect a child for that child to be adjudged an "abused or neglected child," and
- (2) Substantial evidence supported the lower court's finding of neglect in the termination of parental rights proceeding.



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### Intent not required by KRS 600.020(1)?

**Cabinet for Health & Family Servs. v. P.W., 582 S.W.3d 887 (Ky. 2019); and K.W.W. v. Cabinet for Health and Family Services et al., 2018-CA-000028-ME and 2018-CA-000029-ME (Ky. App. Nov. 15, 2019) (Cont.)**

**The Court of Appeals (On Remand)** affirmed the trial court, holding: "While we might not have reached the same conclusions as the trial court with respect to those requirements, we are unable to say that the trial court's findings and conclusions amount to an abuse of discretion. Substantial evidence supports them."



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Practice and  
Concepts Part 1:  
Applying Strategies  
for Effective  
Representation

*Understanding  
Parenting  
for Dependency,  
Neglect and Abuse  
Cases*

# Understanding Parenting for Dependency, Neglect and Abuse Cases

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Legal Training for Dependency, Neglect & Abuse Cases  
May 16, 2025

TEAM  
KENTUCKY  
JUDICIAL BRANCH

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## Learning Objectives

What is Parenting? What are the Types of Parenting?

What is the Parenting Development Process

What are the Ideal Parenting Concepts? What Challenges  
do Parents Face? What Parenting Support Options Exist?

Working with Parents IRL – Strategies and Opportunities  
to Enhance Engagement, Participation & Outcomes

TEAM  
KENTUCKY  
JUDICIAL BRANCH

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## What is Parenting?

Definition of Parenting = "the raising of children"

Security

Safety

Structure

Support

TEAM  
KENTUCKY  
JUDICIAL BRANCH

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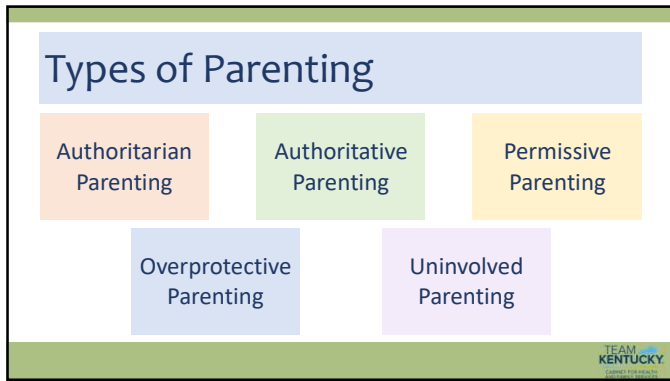
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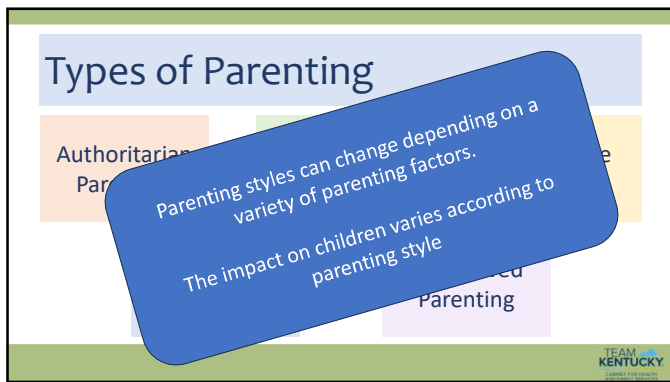
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## Parenting Development

**Positive Impact:**  
 Good parenting contributes to a child's physical, emotional and social development

**Family Relationships:**  
 Good parenting creates a harmonious and supportive family environment

**Prevention:**  
 Good parenting reduces the risk of ACEs, behavioral and mental health issues later in life

Promotes Positive Childhood Experiences and Protective Factors

TEAM KENTUCKY  
Partners in Prevention

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## Key Aspects of Parenting Development

**Education & Social Skills:**  
 Teaching social skills, values, and age-appropriate education

**Physical Health:**  
 Ensuring basic needs such as nutrition, sleep, and healthcare are met

**Emotional Health:**  
 Providing emotional support and building the child's self-esteem

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## Managing Stress and Overcoming Parenting Challenges

**Parent Stress Management Strategies:**  
 Find ways to manage personal & parenting stress

**Social Support:**  
 Seek support from family, friends, community, parenting groups

**Balance:**  
 Maintain a balance between work, family time & personal time

**Best Practice TIP:** Judge orders parent for behavioral health assessment and follow-up services (not to a specific treatment)

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## Parenting-Specific Interventions

- Parent-Child Interaction Therapy (PCIT)
- Triple P-Positive Parenting Program
- Trust-Based Relational Intervention (TBRI)

***Best Practice TIP:** Judge orders parent to have an assessment to determine best parenting supports and services (not to a specific treatment)*

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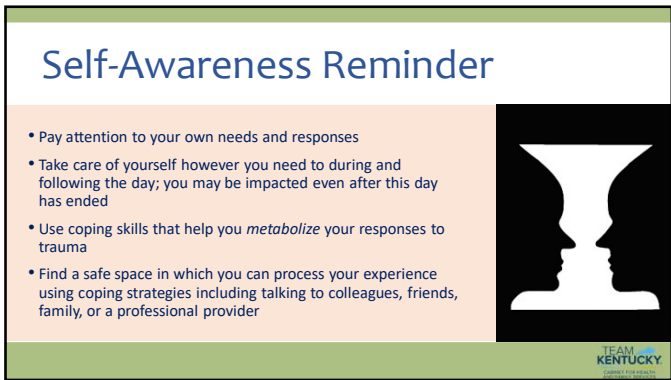
# Self-Awareness Reminder

- Pay attention to your own needs and responses
- Take care of yourself however you need to during and following the day; you may be impacted even after this day has ended
- Use coping skills that help you *metabolize* your responses to trauma
- Find a safe space in which you can process your experience using coping strategies including talking to colleagues, friends, family, or a professional provider




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Supporting the Supportors



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Supporting the Supportors

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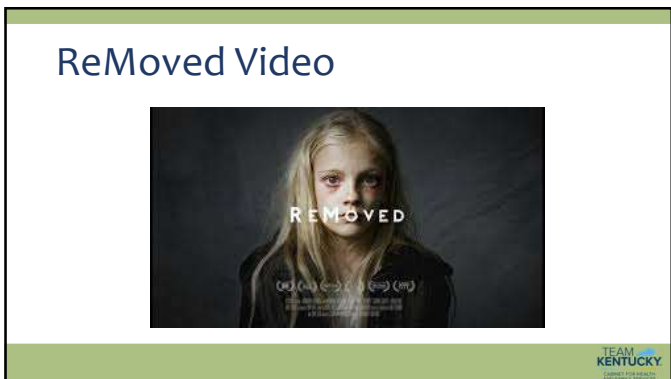


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# ReMoved Video

A video thumbnail featuring a young girl with blonde hair and dark eye makeup, looking directly at the camera. The word "REMOVED" is overlaid in large white letters across her face. Below it are social media icons for YouTube, Facebook, Twitter, and Instagram.

[illegible]

# ReMoved Video

A video thumbnail featuring a young girl with long blonde hair and dark eye makeup, looking directly at the camera. The word "REMOVED" is overlaid in large white capital letters across her face. Below the word, there are several small icons representing different media types: a document, a folder, a play button, a speech bubble, and a mail icon. At the bottom of the thumbnail, there is a line of small text that reads "© 2018 All Rights Reserved. All Rights Reserved."

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## ReMoved

- What stuck out to you?
- What were the poor parenting things you saw?
- Where could you see some potential opportunities to help Zoe's mother parent better?
- What was the impact of the parenting environment on Zoe?

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## Remember My Story – ReMoved 2



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## Remember My Story – ReMoved 2

- What did you notice about the mother's interactions with Zoe and Benaiah?
- What about her responses in court?
- What do we do about a parent's love for their child(ren) when other things are missing?
- What significant information do we learn about mom?

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## Strategies for Working with Parents

- Validate the parents’ trauma
- Listen
- Be curious, not judgmental
- Demonstrate trustworthiness



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## Strategies for Working with Parents

- Show that you can be a collaborator to stop the trauma cycle
- Preparing for the process
  - Recognizing the importance of privacy
- Safe space
  - Physical & emotional



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## Key Ideas to Remember

- Parenting skills to enhance security, safety, structure & support can be learned
- Parenting styles can change with increased knowledge and skill
- Parental love and parenting style may not seem aligned
- There are a number of different ways to support parents: best practice is to order an assessment to provide recommendations for follow-up services
- Parental mistakes, slip-ups and failures throughout the process are not fatalistic and can be opportunities to hone appropriate support
- Court proceedings are stressful in and of themselves; preparation/setting expectations can increase success



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## Kentucky Resources

- [Children's Law Center](#)
- [Family Nurturing Center](#)
- [Partnership for a Resilient Kentucky \(PaRK\)](#)
- [Kentucky Strengthening Families](#)
- [Family Thrive](#)
- [Parent Cafés](#)

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partnership for a resilient kentucky

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### Dr. Darlene M. Davis Goodwine

Clinical Psychologist, Licensed Alcohol  
and Drug Counselor & Parenting Coach

**Director/Parenting Coach  
Parents Zone**

1030 Burlington Lane, Suite 5  
[parentszone4bh@gmail.com](mailto:parentszone4bh@gmail.com)  
502-276-5096



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Sarah Langer, J.D.  
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Children's Law Center  
[slanger@childrenslawky.org](mailto:slanger@childrenslawky.org)  
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<https://www.childrenslawky.org/>



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# Practice and Concepts Part 2: Understanding, Interacting & Communicating for DNA Cases



# Understanding, Interacting & Communicating for DNA Cases

Miriam Silman, MSW, Executive Advisor  
Department for Behavioral Health, Developmental & Intellectual Disabilities  
Legal Training for Dependency, Neglect & Abuse Cases  
May 16, 2025



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## Learning Objectives

Understand & recognize the impact of trauma on the brain & body

Recognize how developmental level & trauma experiences impact youth responses & behavior

Learn strategies to be as trauma-informed and developmentally appropriate in your work with youth on DNA cases



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## Self-Awareness Reminder

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# 9-Year Old Development

<ul style="list-style-type: none"><li>• Have solid caring friendships, may experience peer pressure</li><li>• Recognize and follow basic social norms</li><li>• Have a sense of empathy, are sensitive to the feelings of others</li><li>• Moods are more stable, emotions more easily regulated, can control anger most of the time</li><li>• Have overcome most childhood fears but may start to have other worries</li></ul>	<ul style="list-style-type: none"><li>• Read independently; read to learn things</li><li>• Can do more complex math</li><li>• Speech patterns are like adults</li></ul>
<ul style="list-style-type: none"><li>• Enjoy active play, team sports/activities</li><li>• Take care of personal hygiene independently</li><li>• Enjoy things that require fine motor skills</li><li>• Become more aware of their body &amp; changes</li></ul>	<ul style="list-style-type: none"><li>• Face more academic challenges</li><li>• Increased attention span</li><li>• Think independently</li><li>• Like organization &amp; planning e.g. making places with friends</li><li>• Grow 2.5 inches &amp; 7 pounds/year</li><li>• Seem gangly, out of proportion</li><li>• Lose 4 baby teeth/year</li></ul>

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Kentucky's Early Childhood System

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# ReMoved Video



REMOVED

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Kentucky's Official Sports Team

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# Adulthood

- Premature empowerment of a child to assume authority, acquire knowledge and function in roles associated with adulthood
- Includes skills, knowledge, resources and social networking which helps to manage relationships with others, to play various roles, to perform behaviors and to react to environments within the family or larger society
- Can lead to social isolation
- More prevalent for girls than boys; more prevalent for youth of color
- Much more prevalent for Black girls, especially Black girls who have survived sexual abuse

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BETTER TOGETHER

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## Adultification Resources

- [Girlhood Interrupted: The Erasure of Black Girls' Childhood](#)
- [Listening to Black Women and Girls: Lived Experiences of Adultification Bias](#)
- [The Sexual Abuse to Prison Pipeline: The Girls' Story](#)
- [Growing Up Before their Time: The Early Adultification Experiences of Homeless Young People](#)

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## What is Trauma?

Event

conveys actual or perceived threat of death, serious injury or sexual violation to self or someone we are close to

Experience

unique, individual perception of threat to self or someone we are close to

Effect

adverse; long-lasting; impacts social, emotional, cognitive, spiritual & physical development & functioning

SAMHSA (2014)TEAM KENTUCKY  
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## Types of Trauma

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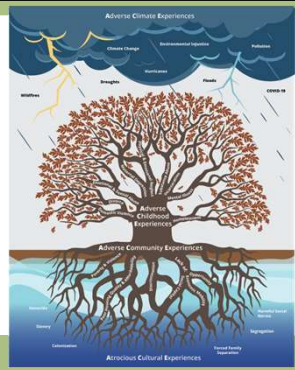
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## The Four Realms of ACES



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Child Welfare Services

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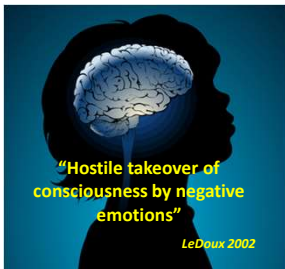
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## Trauma and the Brain

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FIGHT



FLIGHT ooh-la!



FREEZE



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Brain Response to Trauma



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The Power of Connection

“What makes children get better following a trauma is... connection to other human beings...who are present who are patient, who are kind, who are sensitive.”

*Bruce Perry, MD, PhD*

“In addition to improving self-regulation, trauma survivors benefit from developing healthy relationships, which they may have lacked during childhood, in particular secure attachment to their primary caregiver. Through relationships, trauma survivors can learn to feel safe, trust others, learn new ways of relating to people and develop self-compassion.”

*Bessel van der Kolk*

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Child Traumatic Stress Reactions

Age Group	Common Traumatic Stress Reactions
Young children (Birth - 5 y)	<ul style="list-style-type: none"> <li>Withdrawal and passivity</li> <li>Exaggerated startle response</li> <li>Aggressive outbursts</li> <li>Sleep difficulties (including night terrors)</li> <li>Separation anxiety</li> <li>Fear of new situations</li> <li>Difficulty assessing threats and finding protection (especially in cases where a parent or caretaker was aggressor)</li> <li>Regression to previous behaviors (e.g., baby talk, bed-wetting, crying)</li> </ul>
School-age children (6-12 y)	<ul style="list-style-type: none"> <li>Abrupt and unpredictable shifts between withdrawn and aggressive behaviors</li> <li>Social isolation and withdrawal (may be an attempt to avoid further trauma or reminders of past trauma)</li> <li>Sleep disturbances that interfere with daytime concentration and attention</li> <li>Preoccupation with the traumatic experience(s)</li> <li>Intense, specific fears related to the traumatic event(s)</li> </ul>
Adolescents (13-18 y)	<ul style="list-style-type: none"> <li>Increased risk taking (substance abuse, truancy, risky sexual behaviors)</li> <li>Heightened sensitivity to perceived threats (may respond to seemingly neutral stimuli with aggression or hostility)</li> <li>Social isolation (belief that they are unique and alone in their pain)</li> <li>Withdrawal and emotional numbing</li> <li>Low self esteem (may manifest as a sense of helplessness or hopelessness)</li> </ul>

National Child Traumatic Stress Network, Justice System Consortium. (2009). *Helping Traumatized Children: Tips for Judges*. Los Angeles, CA & Durham, NC: National Center for Child Traumatic Stress.

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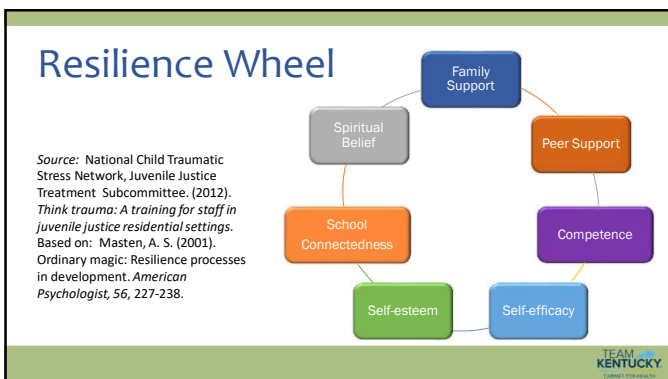
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## Trauma-Informed, Developmentally Appropriate Services for Youth in DNA Cases

### Remember:

- They are still actively learning about the world – the brain is quite neuroplastic
- Physiological growth is exhausting!
- Surviving in a chaotic, traumatic environment is exhausting

### Language:

- Check your choice of words
- Rephrase & repeat to ensure understanding: "So, that means..."
- Give examples that are not connected to the child's situation
- Use various types of media & methods to make the point

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## Trauma-Informed, Developmentally Appropriate Services for Youth in DNA Cases

### Titrate Information:

- One piece of information at a time; not too many things in one appointment/meeting
- Repeat the important things – end with the thing you want them to most remember
- Check understanding with a teach back: "Now you explain it to me" or "How would you explain this to...."
- Take breaks physically & mentally
- Stick to the facts, avoid conjecture – remember, the gray area may be hard for them

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## Trauma-Informed, Developmentally Appropriate Services for Youth in DNA Cases

### Trauma-Informed Tips:

- Take time for small talk; get to know this child & let them get to know you; make time each contact to build the connection
- Allow child to move around
- Have toys or drawing materials or fidgets
- Build in self-regulation as part of your time together (breathing, breaks, naming feelings)

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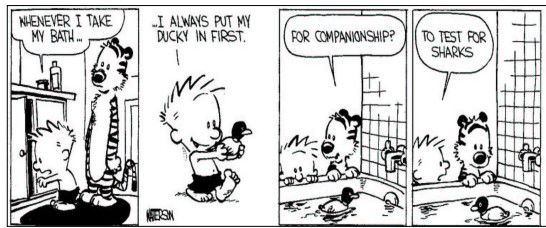
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## Experience builds our world view



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## Our World Reminds Us

### External:

People  
Places  
Things  
Weather  
Time of day  
Sensory stimuli e.g. smells, touch, temperature, light  
Holidays, anniversaries, birthdays



### Internal:

Emotions e.g. anxiety, fear, shame, humiliation, guilt, loneliness  
Thoughts e.g. failure, hopelessness, futility, powerlessness  
Memories  
Physiological sensations: hot, cold, tired, sweaty, sexual attraction, muscle tension

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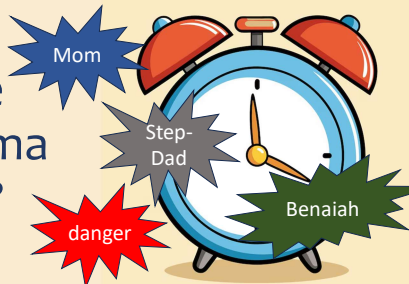
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What were  
Zoe's trauma  
reminders?



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## Anna, 17 y.o.

By age 17, Anna had yet to complete the ninth grade. The court returned her home to her mother after the state declared that "there was nothing else we could do to help her." According to the paperwork that followed Anna throughout her years of involvement in the juvenile justice and child welfare systems, Anna was "defiant," "impulsive," "engaged in dangerous and risky behaviors," "sought the attention of older men," "had an older boyfriend," "made poor choices," "was having unprotected sex," "was noncompliant with therapy and medication management," and "refused to take responsibility for her behaviors." A behavioral checklist completed at a "therapeutic" placement indicated that she was a liar, refused offers of affection, blamed others for her own mistakes, and engaged in dangerous behaviors. With no support or actual knowledge, placement staff completing the checklist also marked "maybe" for stealing, withdrawal, cursing, using pornographic materials, engaging in "seductive moves or sexual advances," reporting foster parents for physical/sexual abuse, having temper tantrums in private, masturbating in private, acting out in church, and refusing to participate in group activities.

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## Anna, now 17

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## Anna's Story (beneath the iceberg)

Since infancy, Anna had experienced abuse and neglect at home. At the age of 8, she was sexually abused by a family member. By age 11, she was court-involved and on probation for an incident that involved taking a classmate's phone and yelling at the classmate (reported as "terroristic threats"). Anna was described as an "11 yr old single black female" with a "sassy attitude." At age 12, she first used marijuana and began drinking alcohol, and after cutting herself to dull the emotional pain of her trauma, she was hospitalized for suicidal ideations for the first, but not last, time. By age 13, Anna was a victim of CSEC and dual-involved in both the juvenile justice and child welfare systems... While in care, Anna changed placements 15 times, eloped from placement on at least 4 occasions, was hospitalized at least 3 times for suicidal ideation, was detained twice for runaway status offenses, and experienced further CSEC victimization.

Underneath the behaviors and allegedly delinquent acts was a child who had experienced a variety of complex traumas and who was responding the same way any child would under the same circumstances. The court, service providers, and other stakeholders involved in Anna's case adultified her, seeing her not as a child but as a grown woman responsible for the maltreatment inflicted on her by others. The system labeled her a "perpetrator" and a "prostitute."

The Sexual Abuse to Prison Pipeline

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### 17-Year Old Development

- Peer relationships are primary, peer pressure is real
- Social perceptions are a focus
- Forming their self-identity
- Independence is often expressed as rebellion
- Very moody
- More emotional ups & downs
- Increased risk-taking behavior

- Huge growth spurts
- High degree of neuroplasticity
- Prefrontal Cortex is lagging in development
- Emotional development is exploding
- Sexual awareness is always there

- May feel more pressure to do well in school
- OR may give up on school as a way out
- Beginning to sense adult responsibilities

- More ability for complex thought
- Stronger sense of right & wrong – but may not align with that of others
- Better able to express self
- More future-focused but may still have limited ability to predict outcomes

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### Child Traumatic Stress Reactions

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National Child Traumatic Stress Network, Justice System Consortium. (2009). *Helping Traumatized Children: Tips for Judges*. Los Angeles, CA & Durham, NC: National Center for Child Traumatic Stress.

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### PCE study findings:

PCEs can mitigate the negative mental health impact of ACEs in adulthood

Dose response: the more (positive) PCEs, the better the adult outcome

PCEs are critical for positive mental health even in the absence of ACEs  
The absence of PCEs may result in more negative mental health than the presence of ACEs

Childhood Experiences and Adult Mental Health: A Study of the Dose-Response Relationship Between Childhood Experiences (ACEs) and Adult Mental Health. *Journal of the American Academy of Child and Adolescent Psychiatry*. 2019;58(10):1000-1007.

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### PCEs Protect Adult Mental Health

51% good mental health (0-2 PCEs)  
75% good mental health (3-5 PCEs)  
87% good mental health (6-7 PCEs)

Good mental health – those not reporting depression or poor mental health

Bethell C, Jones J, Gombojav N, Linkenbach J, Sege R. Positive Childhood Experiences and Adult Mental and Relational Health in a Statewide Sample: Associations Across Adverse Childhood Experiences Levels. *JAMA Pediatr*. 2019 Sep 9; e190007.

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### PCEs Mitigate ACEs Effects

% with Depression or Poor Mental Health

60% (0-2 PCE)  
40% (3-5 PCE)  
20% (6-7 PCE)

4+ ACEs

Bethell C, Jones J, Gombojav N, Linkenbach J, Sege R. Positive Childhood Experiences and Adult Mental and Relational Health in a Statewide Sample: Associations Across Adverse Childhood Experiences Levels. *JAMA Pediatr*. 2019 Sep 9; e190007.

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## 2024 Research on PCEs

### Prevalence of Positive Childhood Experiences (PCEs) Among Adults – Behavioral Risk Factor Surveillance System, Four States, 2015 – 2021

Robert Segge, MD, PhD<sup>1</sup>; Elizabeth A. Swedo, MD<sup>2</sup>; Dina Burstein, MD<sup>3</sup>; Phyllis Halditch, PhD<sup>4</sup>

**Abstract**

**Dose response for educational achievement & income level**

**Population matters: White & straight respondents reported more PCEs than BIPOC or bi-sexual respondents**

...the survey... Kansas (2020), Montana (2015), South Carolina (2020), and Wisconsin (2015). The survey response rate ranged from 45.0% to 51.5%; response rate to PCE questions ranged from 97.3% to 99.6%. PCE survey items were derived from the Child and Youth Resilience Measure (1.5) and included three family items<sup>1</sup> and four community items<sup>2</sup>. The survey used a five-level Likert-type scale and assessed the...

Sege, Swedo, Burstein, Aslam, Jones, Bethell, Nolon (May 2024). Prevalence of Positive Childhood Experiences Among Adults – Behavioral Risk Factor Surveillance System, Four States, 2015 – 2021. <https://www.cdc.gov/mmwr/volumes/73/wr/mm7317a3.htm>

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## Impact of PCEs

### PCEs and Adult Education and Income

Category	1-2 PCEs	3-5 PCEs	6-7 PCEs
Income > \$50K	~10%	~30%	~60%
College Degree	~10%	~25%	~65%
Employment	~10%	~35%	~55%

**Higher number of PCEs are correlated with improved education, employment and income for adults.**

**How can courts promote PCEs to enhance these outcomes?**

Sege, Swedo, Burstein, Aslam, Jones, Bethell, Nolon (May 2024). Prevalence of Positive Childhood Experiences Among Adults – Behavioral Risk Factor Surveillance System, Four States, 2015 – 2021. <https://www.cdc.gov/mmwr/volumes/73/wr/mm7317a3.htm>

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## Trauma-Informed, Developmentally Appropriate Services for Youth in DNA Cases

**Remember:**

- They've seen a lot of sharks
- There has been a lot of reinforcement of survival behavior
- Adolescence is fraught even without trauma...

**Language:**

- Find the harmony between guidance and expectations, limits and empowerment
- Rephrase & repeat to ensure understanding: "So, that means..."
- Give examples that are not connected to the youth's situation
- Use various types of media & methods to make the point

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## Trauma-Informed, Developmentally Appropriate Services for Youth in DNA Cases

### Titrate Information:

- One piece of information at a time; not too many things in one appointment/meeting
- Repeat the important things – end with the thing you want them to most remember
- Check understanding with a teach back: “How would you explain this to....”
- Take breaks physically & mentally
- Don’t ask for too many tasks to be completed at once
- Stick to the facts, avoid conjecture – remember, the gray area may be hard for them

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## Trauma-Informed, Developmentally Appropriate Services for Youth in DNA Cases

### Trauma-Informed Tips:

- Listen...and listen...and listen some more... reflect back, follow-up, take it seriously
- Take time for small talk; get to know this youth & let them get to know you; make time each contact to build the connection;
- Allow the youth to move around, fidget, color or draw or doodle, etc.
- Find and build upon strengths
- Be transparent and honest – always
- Don’t make promises – you can only promise to do your best
- Model accountability and own your mistakes; allow for vulnerability

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## Trauma-Informed Courtrooms

### Consider the judge's demeanor and behavior

- “It goes deeper than respect when you’re talking about trauma...we don’t know what circumstances have brought the individual into the courtroom...”

### Prioritize treatment

- “realizing that if there is a traumatic condition...if we don’t treat that or get to the bottom of that, this person is going to continually be involved in the criminal justice system”

### Slow down

- “Too often, the prosecutors, everybody...wants to hurry up...to get it done...to move on. They don’t want to spend the time with this person or this child...”

### Reimagine the court environment

- “I think the courtroom environment could be a little bit softer...I think there’s ways of making it a little less formal, less daunting.”

### Involve everyone

- “The way that the bailiff’s and other courtroom actors interact with people – I try to monitor that because, in my experience, it has been triggering to some people”

McKinsey et al (2022), *Trauma-Informed Judicial Practice from the Judge’s Perspective*

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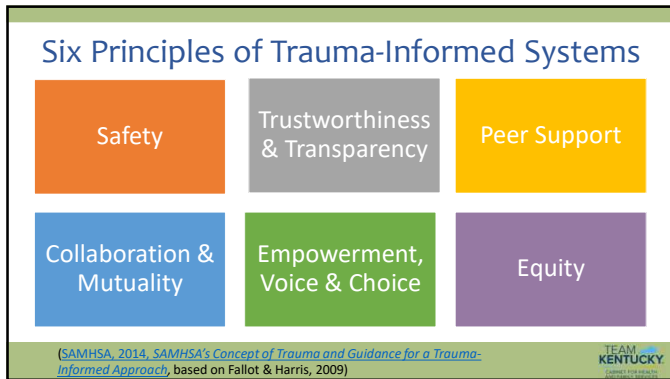
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### Safety Concerns

- **Physical Safety:**
  - *Who can hear me right now?*
  - *Who else will hear this later or in the future?*
  - *Who will be there in court? Will they (offenders) hear what I say?*
- **Psychological Safety:**
  - *What will be the consequences for me? For my family?*
  - *If you don't know the outcome, why should I tell you anything? It might backfire on me...*
  - *Will you still like me if you know my real story? Will anyone still like me?*

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### Safety-Building Strategies

- Comfortable space, minimize institutional feeling
- Separate waiting areas for youth
- Toys, games available
- Flexibility in responding to individual needs
- Be specific about confidentiality – explain it to me and repeat it for me
- Use my preferred names and pronouns

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## Trustworthiness & Transparency

- *Show me I can trust you*
- *Do what you say, say what you do*
- *Don't make promises – you don't have that much control either*
- *Tell me the truth, even when it's bad*
- *Tell me the truth, even if you don't know the answer – say "I don't know"*
- *If you screw up, own it and apologize – take responsibility for your actions like everyone is always telling me!*
- *Don't talk about me or my case to others without my permission – even if you're allowed to – ask me or tell me first!*

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## Strategies for Trustworthiness & Transparency

- Frequent contacts, starting early in the process
- Active listening
- Promote least restrictive environment
- Clarify your role repeatedly
- Ensure youth voice is heard as the youth wishes – testimony, letter, statement, lawyer summary, etc.
- Keep youth informed – don't protect them from bad news, don't decide what they can and can't handle
- Communicate with candor
- Don't talk bad about others in their life

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## Peer Support

- *Remember that peer connections are a critical way I build resilience*
- *Help me build and maintain peer connections*
- *Don't judge my friends – ask me why they are my friends*
- *Don't take time with peers as punishment – they actually help me*
- *Remember that every time the court moves me, I lose important connections and have to start over – at a certain point it's just not worth it and I'll be lonely and mad and won't try anymore*

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## Peer Support Strategies

- Advocate for me to stay connected to peers
- Advocate for me to be able to be engaged in peer activities
- Prevent moves that will strip me of contact with my support people
- Promote contact for me with friends, family, school, etc.
- Advocate for me to be able to fully engage in normal youth activities

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## Collaboration & Mutuality

- *Treat me with respect with your words, non-verbals and actions*
- *Even though you have more authority, I am the expert on me*
- *Ask me, don't tell me*
- *When I give input, consider it – if it isn't realistic, explain to me why not*
- *NO SURPRISES (and if you get surprised, work through it with me)*
- *Help me understand all the possible outcomes – this may be hard for my brain, and it may try to prepare me for the worst as a kind of self-protection*

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## Strategies for Collaboration & Mutuality

- Ask the youth what they want and how they think you can help
- Treat the with respect and as the expert on themselves
- When you think they are making a decision that is not in their best interest, take time to explain your position and discuss with them
- If you feel you need to recommend something the youth doesn't prefer or agree with, take the time to discuss with them in advance
- Prioritize clear and frequent communication
- Prepare well for all hearing and court appearances and actions
- Connect to other agencies and people – take a multidisciplinary approach

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## Empowerment, Voice & Choice

- *Listen to me – I mean, really listen*
- *Value my voice and my perspective – I know a lot about some things*
- *Advocate for me so others hear and respect my voice*
- *Give me choices whenever you can – there is so much I can't control, it's really nice to be able to control some things, even if they seem small*
  - *Where to sit, when to meet*
  - *What to drink or eat*
  - *What topics to talk about first*

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## Empowerment, Voice & Choice Strategies

- Let youth speak their truth and convey it in the way they are most comfortable
- Hear their truth and reflect it back to them and out to others
- Tell youth all their options and rights; make sure they understand them at every step of the process
- Make sure youth understand what is happening as it happens in the courtroom
- Use youth's preferred names and pronouns
- Point out strengths, opportunities, learnings, changes, etc.
- Offer choices whenever possible

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## Equity & Cultural Responsiveness

- *What do you know about my family, my culture and my traditions?*
- *Don't pretend we aren't different – we definitely are!*
- *Make sure me and my family are being treated equitably; if I'm Black or Brown, people may see me differently*
- *You need to be on top of things and advocate for me*
- *Think about what it means for me to be placed in a different culture*
- *Use my preferred name, pronouns and gender identity*
- *Don't judge me, seek to understand my why*

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## Strategies to Build Equity & Maintain Cultural Responsiveness

- Ask, don't assume; come from a place of curiosity not judgment
- Check your own positionality, potential and real biases
- Learn about the culture of the youth and family
- Recognize where there are inequities or risk for inequity
- Make sure youth are not treated inequitably because of their young age
- Practice cultural humility
- Ensure there is language access, translation, etc. as needed for youth and their family/caretakers/advocates

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If you work with humans, you need to be  
trauma-informed & resilience oriented

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## Questions?



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## Resources

- [National Child Traumatic Stress Network](#)
- [Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings](#)
- [Center on the Developing Child at Harvard University](#)
- [PaRK \(Partnership for a Resilient Kentucky\)](#)
- [Trauma-Specific Interventions for Justice-Involved Individuals](#)
- [Trauma and Its Implications for Justice Systems](#)
- [National Child Traumatic Stress Network Bench Card](#)
- [National Council of Juvenile and Family Court Judges Trauma-Informed Courts](#)
- [Trauma-Informed Judicial Practice from the Judges' Perspective](#)
- [Examining the Relationship between Childhood Trauma and Involvement in the Justice System](#)
- [Child Development Guide from New York State](#)

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<https://www.samhsa.gov/find-help/988> and <https://www.samhsa.gov/find-help/disaster-distress-helpline> and <https://findhelpnow.org/ky>

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Department for Behavioral Health, Developmental and Intellectual Disabilities

**Mission:** Promote health and well-being by facilitating recovery for people whose lives have been affected by mental illness and substance use; supporting people with intellectual or other developmental disabilities; and building resilience for all.

**Vision:** All Kentuckians have access to quality services and supports to live full and healthy lives.

**Values:** Choice   Respect   Equity   Excellence   Advocacy  
Collaboration   Trauma-Informed & Resilience Oriented Approaches

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# Termination of Parental Rights Cases



## Termination of Parental Rights Cases

Nathan Goins  
Legal Liaison  
Administrative Office of the Courts

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## Involuntary Termination of Parental Rights (TPR)

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### KRS 625.050(2) Involuntary TPR Petition

Jurisdiction for an involuntary TPR is in the Circuit/Family Court in any of the following counties:

- Where either parent resides or may be found
- Where any juvenile court actions concerning the child have been commenced
- Where the child resides or is present



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KRS 625.050(2)

Involuntary TPR Petition

A petition may be brought by:

- Cabinet for Health and Family Services (CHFS)
- Any child-placing agency licensed by CHFS
- County attorney
- Commonwealth attorney
- Parent



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KRS 625.050(4)

Contents of Petition

(a) Name and mailing address of each petitioner

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

(c) Name and address of the living parents of the child

(d) Name, date of death and cause of death, if known, of any deceased parent

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father

(f) Name and address of the person, cabinet or agency having custody of the child


(g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred

(h) Statement that the person, cabinet or agency to whom custody is to be given has facilities and is willing to receive the custody of the child

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination

(j) Information as to the legal status of the child and the court so adjudicating

(k) A concise statement of the factual basis for the termination of parental rights



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KRS 625.050(5)

Involuntary TPR Petition

- No petition [for involuntary TPR] may be filed [...] prior to five (5) days after the birth of the child



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### No Petition May be Filed...

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[illegible]

### No Petition May be Filed...

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[illegible]


### Definition of “Disability”

[illegible]

KRS 199.011(8)

Definition of "Disability"

- An individual who is currently engaging in the illegal use of drugs or the abuse of alcohol, drugs, or other substances is not an individual with a "disability" for purposes of this definition
- This becomes effective June 27, 2025



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KRS 625.060

Parties to Involuntary TPR

- Child
- Petitioner
- CHFS, if not the Petitioner
- Biological parents (if known) and if their rights have not been previously terminated
  - Putative father need not be a party if he is exempted by KRS 625.065
- Child's foster parent may intervene as a matter of right either by name or anonymously



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KRS 625.065

Putative Father

Six circumstances when the unmarried biological father becomes a putative father, and therefore must be a party:

- He is known and voluntarily identified by the mother by affidavit
- He has registered with the cabinet pursuant to KRS 199.503 as a putative father prior to the birth of the child, or if he did not have notice prior to the birth of the child, within twenty-one (21) days after the birth of the child
- He has caused his name to be affixed to the birth certificate of the child
- He has commenced a judicial proceeding claiming parental right
- He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributing to the child's support
- He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child



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**KRS 625.065  
Putative Father**

- For any man who may be a father but is not/has not:
  - Married the mother prior to the child's birth
  - Established paternity through court or agency prior to the filing of the adoption petition
  - Completed an acknowledgment of paternity affidavit prior to the filing of the adoption petition



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**KRS 625.065  
Putative Father**

- The putative father may register by providing:
  - His name, birthdate, birthplace, residence, and service address
  - If known - the mother's and child's name, birthdate, birthplace, residence, and mailing address
- CHFS maintains the registry and must attempt to contact any man registered in relation to the mother or child
- \$25 fee for the search (certified check or money order)



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**KRS 625.070  
Service of Process**

- Personal service should be used "where possible," otherwise constructive service can be used pursuant to civil rules
- Service is not necessary if there has been a disclaimer of paternity or a voluntary TPR petition filed by parent, or TPR entered
- Service of petition to GAL shall be sufficient for personal jurisdiction over the child
- Petitioner must send courtesy copy of petition to foster



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KRS 625.080

Hearing for Involuntary TPR

- The court shall conduct a private hearing
- The child is a party and GAL shall be appointed to represent the child's best interests if CHFS is to be the custodian
- Parents have the right to counsel
- If indigent, the court shall appoint a separate attorney for each parent
  - If CHFS is seeking post-TPR custody, the cost is paid by the Finance and Administration Cabinet
  - Otherwise, the court may order that the cost be paid by the adoptive parent, biological parents, agency, or the petitioner
- Appointed attorneys may receive a fee up to \$500



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CAC/GAL Ethical Considerations

- Z.T. v. M.T., 258 S.W.3d 31 (Ky. App. 2008) – Father argues counsel failed to zealously pursue his position. The Court held, “if counsel's errors were so serious that it is apparent from the record that the parent was denied a fair and meaningful opportunity to be heard so that due process was denied, this Court will consider a claim that counsel was ineffective.”
- L.L.R. v. W.C., K.C., 2012-CA-000716-ME, 2013 WL 760641 (Ky. App. Mar. 1, 2013) unpublished – Mother argues counsel's failure to file pre-trial disclosures which prevented her from calling witnesses.
- J.W. v. Commonwealth, 2009-CA-002054-ME, 2010 WL 3189597 (Ky. App. Aug. 13, 2010) unpublished – Incarcerated Mother argues ineffective assistance of counsel.



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CAC/GAL Ethical Considerations

- Cabinet for Health & Family Services v. H.C., 581 S.W.3d 580 (Ky. 2019) – Excusable neglect necessary for an extension to file a notice of appeal.
- D.J.V. v. G.W.D., 2017-CA-000773-ME, 2019 WL 2406970 (Ky. App. June 7, 2019) unpublished – Incarcerated Father argues ineffective assistance of appointed GAL.



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### Effective Assistance of Counsel

T.W. v. Cabinet for Health and Family Services, 484 S.W.3d 302 (Ky. App. 2016) – Counsel represented both parents at TPR hearing where the basis for the TPR was that the Cabinet could not ascertain which of the parents had perpetrated abuse on the child. The Court held that where “counsel had an actual conflict of interest, a parent is not required to demonstrate prejudice caused by that representation and it must be presumed. Consequently, the only remedy is reversal and remand for a new termination hearing.”



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### Effective Assistance of Counsel

A.P. v. Commonwealth, 270 S.W.3d 418 (Ky. App. 2008) – TPR reversed where Mother's counsel was not present for the first day of TPR trial and failed to cross-examine critical witnesses who testified on that date. Counsel also did not confer with Mother before consenting to the trial proceeding in his absence.



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### Pre-trial Disclosures Must Be Filed

Commonwealth, Cabinet for Health and Family Services v. S.H., 476 S.W.3d 254 (Ky. 2015) – The Supreme Court upheld the Court of Appeals' opinion reversing and remanding a TPR judgment where Cabinet failed to comply with FCRPP 7(1), which requires parties to provide a list of expected witnesses and exhibits in a permanent custody action. The Supreme Court held that FCRPP 7(1) applies to TPRs and that “a parent facing a termination hearing should be afforded every procedural protection the law allows.”



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### Procedural/Evidentiary Rules Apply

Prater v. Cabinet for Human Resources, Commonwealth of Ky., 954 S.W.2d 954 (Ky. 1997) – The Supreme Court reversed TPR where the circuit court’s findings in support were based at least in part on impermissible hearsay. The Court noted that the business records exception for Cabinet records does not provide carte blanche admission of everything therein. “The factual observations of social workers recorded in CHR case records are admissible under the business records exception, because such observations would be admissible if the social worker testified in person; but the recorded opinions and conclusions of social workers are not admissible, because the persons offering those opinions are insufficiently qualified to render expert opinions.”



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### Procedural/Evidentiary Rules Apply

Prater v. Cabinet for Human Resources, Commonwealth of Ky., 954 S.W.2d 954 (Ky. 1997) (Cont.) – The Court holds, “Hearsay statements made by children to social workers in the course of an abuse or neglect investigation, or otherwise, do not become admissible simply because they are memorialized in a CHR case record.” The Court follows by stating, “There is no recognized exception to the hearsay rule for social workers or the results of their investigations.”



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### Procedural/Evidentiary Rules Apply

- N.P. v. Commonwealth, 2002-CA-001781-MR, 2004 WL 68521 (Ky. App. Jan. 16, 2004) unpublished – The Court of Appeals reversed TPR where the circuit court relied on hearsay evidence of the Cabinet worker to establish that parent abused or neglected the child. The Court of Appeals also noted that the circuit court erred in taking judicial notice of a psychological evaluation of the father contained in a district court file because the hearsay statements and opinions contained therein were not “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”



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**KRS 625.080**

**Hearing for Involuntary TPR**

- The court may allow parent visitation to continue pending the hearing if in the child's best interest
- Hearing to be held within sixty (60) days of a motion by party or the GAL



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**KRS 625.080**

**Timing for Involuntary TPR Judgment**

Involuntary TRP petition must be fully adjudicated and final judgment entered within 6 months of service of the petition on the parents



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**KRS 625.090**

**Findings for Termination**

**Four requirements:**

- One of four threshold requirements
- CHFS filed for TPR
- TPR in the child's best interest
- One of ten grounds for termination



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## KRS 625.090(1)(a)

### Thresholds for Termination

Court must find **one** of the following **four** by "clear and convincing" evidence:

- Child has been adjudged to be an abused or neglected child, by any court
- Child is found to be abused or neglected in the TPR proceeding
- Child is found to have been diagnosed with neonatal abstinence syndrome at birth unless:
  - Mother was properly using prescribed medication, or
  - Mother is currently, or within 90 days of the child's birth, enrolled in and maintaining substantial compliance with both a substance abuse treatment and recovery program and a regimen of prenatal/postnatal care
- Parent has been convicted of a criminal charge relating to physical abuse or sexual abuse and the conduct is likely to occur if parental rights are not terminated



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## Intent

### DNA Action vs. TPR Action

- Cabinet for Health & Family Services v. K.S., 585 S.W.3d 202 (Ky. 2019)
- Cabinet for Health & Family Services v. P.W., 582 S.W.3d 887 (Ky. 2019)
- Cabinet v. C.R. & C.B., 556 S.W.3d 568 (Ky. 2018): As stated in KRS 600.020(1)(a)(2), a court can find neglect if an individual "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." "The statute, as written, permits the court's finding where a *risk of abuse* exists and *does not require actual abuse* prior to the child's removal from the home or limitation on the contact with an abusive parent." Citing Z.T. v. M.T., 258 S.W.3d 31, 36 (Ky. App. 2008) (emphasis added).



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## Individualized Determinations are Required

Cabinet for Health and Family Services v. K.H., 423 S.W.3d 204 (Ky. 2014) – "[KRS 625.090(6)] clearly mandates that the trial court must find that each parent satisfies the three prongs found in the TPR statute, including whether the child qualifies as an abused or neglected child." Unless it is a situation in which the court can infer joint responsibility, an individualized determination that each parent abused or neglected the child is needed.



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**KRS 625.090(1)(b) & (c)**  
**Other Required Findings for Termination**

The court must find that:

- The Cabinet for Health and Family Services has filed a petition with the court pursuant to KRS 620.180

**AND**

- Termination would be in the best interest of the child



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**KRS 625.090(2)**  
**Grounds for Termination**

The court must find that 1 or more of the following 11 grounds exists:

- Abandonment for no less than 90 days
- Parent has inflicted/allowed non-accidental "serious physical injury"
- Parent has continuously/repeatedly inflicted/allowed non-accidental "physical injury or emotional harm"
- Parent convicted of felony involving serious physical injury toward any child



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**KRS 625.090(2)**  
**Grounds for Termination**

- Parent has failed to provide, or has been incapable of providing, "essential parental care" for 6 months; and there is no reasonable expectation of improvement
- Parent caused or allowed sexual abuse to occur
- For reasons other than poverty alone, parent has repeatedly failed to provide essential food, clothing, shelter, medical care, or education
- Involuntary TPR of another child and conditions or factors supporting the previous TPR have not been corrected



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## Grounds for Termination

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### Child's Best Interest in TPR

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### Definition of “Disability”



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### KRS 625.090(3)

#### Child's Best Interest in TPR

The court shall consider:

- Acts of abuse or neglect toward any child in the family
- Whether rehabilitation efforts of parent make it in the child's best interest to be returned to the home within reasonable time
- Physical, mental and emotional health of the child, AND
- Payment of substitute physical care and maintenance, or failure to pay if financially able to do so



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#### Best Interest Requirement

*D.G.R. v. Commonwealth, Cabinet for Health and Family Services*, 364 S.W.3d 106 (Ky. 2012) – "The trial court was presented with testimony from both sides. The Cabinet's witnesses were firmly set against reunification. But the parents' witnesses had experience with the family in more direct ways than the Cabinet witnesses did, and if believed, established that the parents were loving and had the potential to learn to care for their child. The parents' witnesses were not interested parties; they included school employees and mental health workers, all of whom had obligations to protect the child. The trial court chose to believe the parents' witnesses. Their testimony was relevant and substantive; it was sufficient to lead a reasonable person to find that the Cabinet had failed to show that termination was in the child's best interest. This Court cannot say that the trial court was clearly erroneous in choosing to believe the witnesses offered by the parents, nor that their testimony was insufficient to support the trial court's determination."



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#### Best Interest Requirement

*Cabinet for Health and Family Services v. T.N.S.*, 2016-CA-001765-ME, 2017 WL 3971614 (Ky. App. Sept. 8, 2017) unpublished – The Court of Appeals affirmed the family court's denial of TPR. In finding that termination was not in the child's best interest, the family court noted the child was not in a permanent foster placement and placed significant weight on Mother's testimony, her tangible improvements in the year leading up to trial, and her apparent desire to continue to improve her care of the children.



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### Best Interest Requirement

Cabinet for Health and Family Services v. T.J., 2011-CA-001342-ME, 2012 WL 5077169 (Ky. App. Oct. 19, 2012) unpublished – “[T]he child's age and prospects for adoption are not, by themselves, factors which the trial court should consider in determining whether termination would be in the best interests of the child.”



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### Best Interest Requirement

Commonwealth, Cabinet for Health and Family Services v. S.A.D., 2009-CA-000287-ME, 2009 WL 2837540 (Ky. App. Sept. 4, 2009) unpublished – The Court of Appeals affirmed the circuit court's denial of TPR where the record sufficiently supported the decision. The parents were cooperating with parenting classes and treatment and continued to have at least some measure of a parental bond with their children. Additionally, one child indicated she did not wish to be adopted and the other was right on the cusp of emancipation.



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### Best Interest Requirement

S.M. v. Cabinet for Health and Family Services, 2019-CA-000480-ME, 2020 WL 598346 (Ky. App. Feb. 7, 2020) unpublished – The Court of Appeals remanded for additional findings on the best interest prong of TPR. The Court noted that there was little evidence regarding the physical, emotional, or mental health of the child or the child's prospects for improvement if TPR were granted. The extent of such evidence was CHFS worker's hearsay statement that the child is doing well, goes to school daily, makes good grades, is happy, and calls foster mother "mom."



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### Reasonable Efforts by the Cabinet

M.E.C. v. Commonwealth, Cabinet for Health and Family Services, 254 S.W.3d 846 (Ky. App. 2008) – “[W]e find that reasonable services to reunite the family were not provided to M.E.C. and her children. The goal from reunification to termination was changed after only eight months’ time, of which M.E.C. was either incarcerated or hospitalized. The Cabinet never changed its plan for reunification to accommodate M.E.C. during this time. In addition, the Cabinet never provided any rationale for changing the goal.”



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### Reasonable Efforts by the Cabinet

H.M.R. v. Cabinet for Health and Family Services, 521 S.W.3d 221 (Ky. App. 2017) – The Court of Appeals reversed TPR where no individualized finding of abuse or neglect was made regarding Father and where the Cabinet failed to meaningfully attempt at reunification. Prior to Court action, Father had regular contact with the child and provided support. Father participated in court action and requested custody. Despite requests, Father was never given a formal case plan.



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### Reasonable Efforts by the Cabinet

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## Terminating Parental Rights of a Low Functioning Parent

Cabinet for Health and Family Services, et al. v. K.S., 585 S.W.3d 202 (Ky. 2019)

- **The Trial Court** rendered a judgment terminating Mother's parental rights. It found that while Mother had completed most tasks in her case plan, her disabilities impeded return of Child. It found that Mother had not made significant progress toward identified goals and that she was unable to achieve self-sufficiency or the necessary parenting skills to care for Child.
- **The Court of Appeals** vacated the family court's judgment and remanded the case to the family court for additional services to Mother to determine whether she is capable of parenting Child.



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## Terminating Parental Rights of a Low Functioning Parent

Cabinet for Health and Family Services, et al. v. K.S., 585 S.W.3d 202 (Ky. 2019)  
(Cont.)

**The Kentucky Supreme Court** reversed the decision of the Court of Appeals and found that there was sufficient testimony that there were no additional services that could be offered to Mother that could result in a safe return of the child within a reasonable period of time.  
Justice Lambert's Dissent relied on the reasonable efforts requirement and the Americans with Disabilities Act to argue that more should have been done for the mother.



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## KRS 625.090(4) Evidence Refuting Termination

If the child is placed with CHFS, the parent may present testimony concerning reunification services offered and whether additional services would likely bring about lasting parental adjustment enabling a return of the child to the parent



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### KRS 625.090(5)

#### Permissive Defense to Termination

The court may determine not to terminate if the parent proves by a preponderance of evidence that:

- The child will not continue to be abused or neglected if returned to the parent, OR
- **Effective June 27, 2025**, Appropriate and specifically targeted adaptive or supportive services based upon an individual assessment of the parent have not been offered or provided to the parent



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#### TPR is Discretionary

D.G.R. v. Commonwealth, Cabinet for Health and Family Services, 364 S.W.3d 106 (Ky. 2012) – Even when a court finds clear and convincing grounds to terminate, “[a] court is never *required* to terminate under the statute as its authority to terminate is couched in the permissive ‘may’ rather than the mandatory ‘shall,’ KRS 625.090(1), and the trial court has substantial discretion in determining the best interests of the child under KRS 625.090(1)(b) and (3).”



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#### TPR is Discretionary

D.G.R. v. Commonwealth, Cabinet for Health and Family Services, 364 S.W.3d 106 (Ky. 2012) (Cont.) – “Indeed, the bulk of the statute, reflects a default preference against termination, which is why it states that no termination of parental rights shall be ordered *unless* the court makes the statutory findings based on the higher standard of proof of clear and convincing evidence. The Constitution itself requires the state to meet this burden of proof before a parent’s rights may be terminated because of the ‘fundamental liberty interest’ a parent has in the relationship with a child.”



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### TPR is Discretionary

D.G.R. v. Commonwealth, Cabinet for Health and Family Services, 364 S.W.3d 106 (Ky. 2012) (Cont.) – “Termination proceedings are—and should be—weighted against the State. Thus, the default position in such a proceeding is that the child is to be left with the parents or returned to them, with or without ongoing services as needed. The State cannot disturb this natural order lightly. When there is substantial competent evidence that the trial court finds persuasive, as is the case here, an appellate court should not intercede.”



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### Incarcerated Parents

M.P.R. v. Cabinet for Health & Family Services, 520 S.W.3d 409 (Ky. App. 2017) – “Certainly, *if* the court’s decision to terminate Father’s rights had been based *solely* on the fact that he was incarcerated, it would be in error. [...] That, however, is not what happened in the present case. Father testified to the fact that he had not attempted to contact, support, or visit with Child since the Cabinet was awarded temporary custody of Child. This was not solely due to Father’s incarceration.”



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### KRS 625.090(6)

#### Findings and Conclusions

The court shall enter findings of fact, conclusions of law, a and decision as to each parent-respondent within 30 days of either:

- Terminating the right of the parent; or
- Dismissing the petition and stating whether
  - The child should be returned to the parent, or
  - The child should remain in state custody



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### Relative Placement

- J.L.C. v. Cabinet for Health & Family Services, 539 S.W.3d 692 (Ky. App. 2018) – The Court of Appeals affirmed termination of parental rights and rejected appellant's argument that the Cabinet violated KRS 620.090 & 922 KAR Sec. 1:140 by not placing children with a relative. The Cabinet is not mandated to choose relative placement over other placement options.
- P.W. v. Cabinet for Health & Family Services, 417 S.W.3d 758 (Ky. App. 2013) – There is no mandate to choose relatives over other options.



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### Voluntary Termination of Parental Rights

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### KRS 625.040 Voluntary TPR Petitions

A petition for the voluntary termination of parental rights shall be filed in the Circuit Court of the judicial circuit where the petitioner or child resides or in the Circuit Court in the county in which juvenile court actions, if any, concerning the child have commenced



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## Voluntary TPR Petitions

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KRS 625.040

Voluntary TPR Petitions

- Voluntary TPRs can be filed by a parent or counsel for parent with appearance-waiver forms and consent-to-adopt forms per KRS 625.041(3) & (4)
- Voluntary TPRs cannot be filed until at least three (3) days after the child's birth



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KRS 625.040

Voluntary TPR Petitions

**ANY VOLUNTARY TPR PETITION MUST CONTAIN:**

- Name & place of residence of petitioner
- Name, sex, date of birth, residence of the child
- Relationship of petitioner to the child
- Statement of factual basis for TPR
- Name of person/agency to which rights are sought to be transferred
- Statement that person who will have custody is willing and able to care for the child



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KRS 625.041

Parties Involved

- Parent seeking termination
- Child, through the guardian *ad litem*
- Person/Agency that will be receiving the child following termination(?)
  - *D.L.B. v. Cabinet for Health and Family Services*, 418 S.W.3d 426 (Ky. App. 2014) – Voluntary consent to TPR was not valid because, in part, CHFS did not sign anything in the record to indicate that it would/could take custody.
- NOTE: A parent seeking voluntary TPR does not need to be present at hearing if he/she executed the appearance-waiver and consent-to-adopt forms prescribed by the Administrative Office of the Courts



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**KRS 625.041**  
**GAL to be Appointed**

- The court shall appoint a guardian *ad litem* to represent the best interest of the child
- The GAL shall be paid a fee not to exceed \$500, which is paid by the petitioner unless CHFS receives custody of the child, in which case the Finance and Administration Cabinet shall pay



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**KRS 625.0405**  
**Appointment of Attorney for Indigent Parent**

- Any parent desiring to voluntarily terminate his/her parental rights may request that the Court appoint an attorney to represent him/her, even "prior to" the filing of the petition
- The attorney shall be appointed within 48 hours of request
- The attorney shall receive a fee not to exceed \$500
  - The fee is paid by the Finance and Administration Cabinet if TPR is not granted or if the Cabinet takes post-TPR custody
  - Otherwise, the court may order fee to be paid by proposed adoptive parents, biological parents, or the agency



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**KRS 625.0405**  
**Appointment of Attorney for Indigent Parent**

- In a voluntary TPR, the attorney cannot represent **both** the biological and prospective adoptive parents
- Violation is a Class A misdemeanor



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**KRS 625.042**

**Hearing**

- Within 3 days of the filing of the voluntary TPR petition, the court shall set a date for the final hearing. The date shall not be more than 30 calendar days after the petition is filed.
- All hearings shall be confidential
- The best interest of the child shall be paramount in deciding whether TPR is granted
- The judgment must be entered within 6 months of filing the petition



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**KRS 625.044**

**Inheritance**

- Following a voluntary TPR, the child retains the right to inherit from his parent until, and unless, the child is subsequently adopted
- The same applies if there is an involuntary TPR (See KRS 625.104)



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**KRS 625.046**

**Effect of Termination Order**

**Any order for voluntary TPR shall be  
conclusive and binding on all parties**



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# Ethics: Essentiality of Engagement



## Essentiality of Engagement

Nathan Goins  
Legal Liaison  
Administrative Office of the Courts

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### SCR 3.130(1.4) Communication

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.



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### FCRPP 35

**Amendments:**

- Establishes rules and standards for Court-Appointed Counsel (GALs and Adult Attorneys) for all child welfare cases (DNA, TPR, adoption)
- Requires CAC's to follow Statewide Standards of Expected Conduct for Court-Appointed Counsel ("Statewide Standards"), unless the Supreme Court approves a local deviation from those standards
- Deviations by local rules should mirror nationally recognized standards



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### FCRPP 36(1) – (3)

#### Amendments:

- Requires court maintain list of appointment attorneys, along with the attorneys' contact information
- Prohibits "exclusive" or "closed" lists, by making lists open to any attorney who wants to be included and who has completed the required training
- Attorney
- Authorizes sanctions (including removal) for any attorney who does not comply with rules and standards
- Prohibits removal of attorney if it would harm client



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### FCRPP 36(4)

#### Amendments:

- Requires that, prior to appointment, the court must determine the party is indigent and the file must contain an affidavit of indigency
- Allows courts to appoint without affidavit by making specific findings of indigency, but the party must file the affidavit within 5 days of appointment or the appointment is vacated



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### FCRPP 36(5) – (7)

#### Amendments:

- Courts must review list every 4 years and make it available upon request
- Courts must appoint attorneys sequentially from the list unless: another attorney previously represented the party, the appointment would create a conflict, or there are unique circumstances requiring a different appointment



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### FCRPP 37

**Amendments:**

- Requires all attorneys to complete AOC's DNA training
- Requires continuing education of 4 hours every 2 years



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### FCRPP 38

**Amendments:**

- Requires CAC to pursue/defend an appeal if the party wishes. The appeal would be a new proceeding for billing purposes
- Prohibits multiple invoicing for the same proceeding (case) group



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### Appendix D

**Amendments:**

- Statewide Standards of Expected Conduct for Court-Appointed Counsel
- Apply to all CAC (GAL and adult attorneys)
- Some apply to all CAC: zealous advocacy, preparation, knowledge, communication, understanding trauma, etc.
- Some apply to all GALs: advocate for sibling contact, ensure child's voice is heard, explain his/her role as a best interest advocate, etc.
- Some apply to all adult attorneys: actively pursue client's objectives, assist with problem-solving, identify ancillary legal issues and suggest legal resources, etc.



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### Ethics Opinion E-454

- Question #1: As a Court-appointed Guardian Ad Litem ("GAL") , does the attorney owe ethical duties to the minor, prisoner and/or legally disabled person as opposed to the Court?
  - Answer: Yes.
- Question #2: If the GAL reasonably believes that the client has diminished capacity, is at risk for substantial physical, financial or other harm unless action is taken, and cannot adequately act in his or her own interest, can the GAL take reasonably necessary protective action for the client, even to the point of advocating a position contrary to the client's wishes?
  - Answer: Qualified Yes



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### Practice Tips

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### Boundaries

- Setting appropriate limits with clients
- Setting appropriate limits with relative placements and foster parents
- Explain your role. Be clear that you do not represent the caregiver.
- Caregivers will often want to exchange information with you. Be clear that you only collect information from the caregiver.



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### Forming Opinions

- Recognize the motivations of those providing information
- Everyone has their own motivations and their own opinions as to what is in the child's best interest
- You should consider all the relevant information and opinions and form your own opinion as to the child's best interests



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### Forming Opinions

- Lifestyle differences
- Socio-economic
- Race and Ethnicity
- Sexual orientation
- Ask yourself whether the situation actually causes harm to the child, or is it just different from your lifestyle



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### Advice from Judges

- Be on time
- Be prepared
- If you are a GAL, do not visit one time and then forget about your client
- If you represent a parent, talk to your client before Court
- Avoid continuances when you can



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**Advice from Judges**

"If you must have someone cover Court for you, make sure they are prepared and knowledgeable...clients are not served by having simply "warm bodies" representing them!"

"There are ways to balance Court running smoothly while also speaking up and representing your client. Find that balance."



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**Advice from Judges**

"Check your biases at the door! You will be dealing with many families with substance use disorders and mental health problems in difficult financial positions."



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**Advice from Judges**

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**Advice from Judges**

“Never forget that you are dealing with actual people. You can be firm with your clients when you need to but always do so with respect and kindness. These families come to us at the lowest possible time in their lives. A little compassion can make all the difference in changed outcomes for these families.”



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**Advice from Judges**

“These cases are very serious. In fact, it is hard to imagine another area of law where so much is at stake.”



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**Thank you for your time and attention!**

If you have questions, please contact:

Nathan Goins  
nathanielgoins@kycourt.net  
502-573-2350 (Ext. 50529)



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