

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION __
CASE NO. _____
Electronically filed

ALLISON JOY BALL, in her official capacity as
the Kentucky Auditor of Public Accounts

Plaintiff

v.

ANDREW GRAHAM BESHEAR, in his official capacity as
Governor of the Commonwealth of Kentucky;

SERVE: Office of the Governor
700 Capital Avenue, Suite 100
Frankfort, Kentucky 40601
travis.mayo@ky.gov

Office of the Attorney General
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601
servethecommonwealth@ky.gov

ERIC FRIEDLANDER, in his official capacity as
Secretary of Kentucky's Cabinet for Health and
Family Services;

SERVE: Office of the Secretary
275 E. Main St. 5W-A
Frankfort, Kentucky 40621
wesleyw.duke@ky.gov

Office of the Attorney General
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601
servethecommonwealth@ky.gov

Defendants

COMPLAINT FOR DECLARATORY RELIEF

INTRODUCTION

1. Responsible public officials must confront an unfortunate fact of life: Not all of Kentucky’s children grow up in a home free from dependency, neglect, and abuse.

2. Thankfully, Kentucky has tens of thousands of kinship caregivers—relatives or close family friends of a child in need—willing to step up and provide a loving, safe, and stable home for these children.

3. Understanding the importance of kinship caregiving in Kentucky, the General Assembly unanimously passed Senate Bill 151 (“SB 151”) during its 2024 regular session.

4. At bottom, SB 151 creates a much-needed window of time for kinship caregivers to evaluate whether a particular route of kinship caregiving is best suited for them and, most importantly, the child for whom they are caring.

5. But SB 151 is in limbo: Governor Andrew Graham Beshear and the Cabinet for Health and Family Services (“CHFS”) refuse to execute it.

6. Relying on a questionable factual basis and a tortured reading of *Fletcher v. Commonwealth*, 163 S.W.3d 852 (Ky. 2005), Governor Beshear and CHFS claim that the General Assembly has not given them enough money to

execute SB 151 and, that allegedly being the case, they are under no obligation to carry out that law.

7. As the policymaking body and holder of the power of the purse that determines the proper level of funding to give state agencies to carry out the Commonwealth's laws, the General Assembly says that Governor Beshear and CHFS have more than enough money to carry out SB 151 and must do so.

8. Kentucky Auditor of Public Accounts ("APA") Allison Joy Ball wants to, by exercising her investigatory authority, figure out who is right and create a path forward for Governor Beshear and CHFS to carry out SB 151 for the benefit of kinship caregivers and the children for whom they are caring.

9. But CHFS has now taken Governor Beshear's intellectually dishonest position to the next level: CHFS is now using that same questionable factual and legal basis to refuse to *even cooperate* with the APA in the APA's examination of whether Governor Beshear and CHFS can execute SB 151.

10. To rectify this blatant disregard of their constitutional duty and their obstruction of the APA's investigatory authority—obstruction that, to the APA's knowledge, no Governor or executive branch agency has ever committed in the history of the Commonwealth—the APA is here to ask this Court to remind Governor Beshear and CHFS of their constitutional duty to execute and obey the law.

NATURE OF ACTION

11. This Complaint for Declaratory and Injunctive Relief is governed by the Kentucky Declaratory Judgment Act, KRS 418.005, et seq., and Kentucky Rules of Civil Procedure 57 and 65.

12. KRS 418.040 provides that where “an actual controversy exists, the plaintiff may ask for a declaration of rights, either alone or with other relief; and the court may make a binding declaration of rights, whether or not consequential relief is or could be asked.”

13. An actual and justiciable controversy exists in this action.

PARTIES

14. Allison Joy Ball is the duly elected Kentucky Auditor of Public Accounts. She has broad investigatory authority, including the ability to examine the conduct of state officers and agencies. KRS 43.050. She also has broad authority to review any information an individual or entity has and can assert that authority through subpoenas and by compelling testimony. KRS 43.080.

15. Andrew Graham Beshear is the Governor of the Commonwealth of Kentucky. The Governor is the Commonwealth’s “Chief Magistrate,” Ky. Const. § 69, and is charged with “tak[ing] care that the laws be faithfully executed,” Ky. Const. § 81.

16. Eric Friedlander is the Secretary of the Cabinet for Health and Family Services. CHFS “is the primary state agency for operating the public

health,” and its function “is to improve the health of all Kentuckians.” KRS 194A.010(1). CHFS is the primary entity charged with executing SB 151.

JURISDICTION AND VENUE

17. This Court has jurisdiction over this action under Section 112(5) of the Kentucky Constitution, KRS 23A.010(1), and KRS 418.040.

18. Venue for this action is proper in this Court under KRS 452.405(2) and KRS 452.480.

FACTUAL BACKGROUND

Kinship caregivers give prospective foster children a loving, safe, and stable home.

19. Kinship caregivers provide an alternative caregiving option to traditional foster care for a child in need.

20. Research continues to confirm that, in most instances, kinship care is the best option to promote optimal overall well-being for children who cannot be with their parents. Exhibit 1.

21. Kinship caregivers provide a familiar, stable, and nurturing temporary or permanent home for youth that preserves familial bonds and cultural connections. *Id.*; Exhibit 9 at Slide 2.¹

¹ See also Department for Community Based Services Commissioner Lesa Dennis, Interim Joint Committee on Families & Children, 10:00–11:12, 28:00–33:35 (June 19, 2024), <https://ket.org/legislature/archives/2024/interim/interim-joint-committee-on-families-and-children-td3355>.

22. Children cared for by kinship caregivers experience less placement disruptions than children in traditional foster care, which minimizes additional trauma that can often compound to create more mental, behavioral, and physical health concerns and barriers throughout life. Exhibit 1; Exhibit 9 at Slide 2.²

23. An estimated 55,000 children in Kentucky are currently being raised by kinship caregivers. Exhibit 1. Stated differently, 6% of the Commonwealth's children are being cared for by a kinship caregiver, which is twice the national average. *Id.*

The General Assembly passes SB 151.

24. Recognizing the importance of kinship caregiving in Kentucky, the General Assembly passed SB 151 during the 2024 regular session. Exhibit 2. That law does two notable things.

25. First, SB 151 gives the child a voice in the caregiver placement process: When deciding with whom to place a neglected or abused child, CHFS must give that child an opportunity to voice his or her desired placement. Exhibit 2 at Section 1(1)(c).

26. Second, as explained more below, SB 151 provides a window of opportunity for kinship caregivers to decide on a placement option that potentially offers them a better financial and custodial option in caring for a child in need. Exhibit 2 at Section 2(3).

² See also Commissioner Dennis, *supra* n.1, at 10:00–11:12, 28:00–33:35.

27. SB 151 passed unanimously out of the General Assembly and was signed by Governor Beshear.

SB 151 helps kinship caregivers and the children they care for.

28. A court can remove a child from an abusive situation. KRS 620.070, .072, .080, .090, .100, .110, .130, .140.

29. After it does so, when the court is deciding where to temporarily place the child, it has many options. KRS 620.140, .142; *J. B-K v. CHFS*, 48 F.4th 721, 724 (6th Cir. 2022).

30. One of those options is to put a child in the care of a kinship caregiver. KRS 620.140, .142; *J. B-K*, 48 F.4th at 724. That takes one of three forms, two of which are most relevant here.

31. First, a kinship caregiver can choose to assume temporary custody of a child in need. *J. B-K*, 48 F.4th at 724 (citing KRS 620.140(1)(c)); Exhibit 8 at Slide 5; Exhibit 9 at Slides 4–5; Exhibit 10.

32. Second, a kinship caregiver can choose to have CHFS take legal custody of the child while the child is placed with that kinship caregiver to provide for the child’s day-to-day care as a kinship care foster parent. *J. B-K*, 48 F.4th at 724 (citing KRS 620.140(1)(d)); Exhibit 8 at Slide 5; Exhibit 9 at Slides 4–5; Exhibit 10; *see also* KRS 620.090.

33. The path that a kinship caregiver chooses has major financial and custodial implications. Generally, the kinship-care-foster-parent route provides greater financial assistance and a path for kinship caregivers to

obtain subsidized permanent custody of the child for whom they are caring. Exhibit 8 at Slides 5–6; Exhibit 9 at Slides 4–6.

34. CHFS policy provides that prospective kinship caregivers only have ten working days to decide on a particular path.³

35. So under that policy, kinship caregivers have ten working days to process the emotions of becoming a kinship caregiver, evaluate both the short and long-term benefits of the caregiving options before them, and then officially decide upon which option to take.

36. For obvious reasons, kinship care advocates and the General Assembly found this window of time to be insufficient for prospective kinship caregivers to truly understand the benefits of becoming a kinship care foster parent, especially since CHFS purportedly fails to adhere to that full ten-day window in many instances.⁴

37. So the General Assembly decided to unanimously pass SB 151 to give prospective kinship caregivers 120 days (or any time a CHFS-specified qualifying event occurs) to decide whether to become a kinship care foster parent.

³ DCBS Standards of Practice Online Manual, C8.1 Relative and Fictive Kin Placement Consideration, Procedure ¶ 6 (Mar. 24, 2025), <https://manuals-sp-chfs.ky.gov/C8/Pages/C8-1.aspx>.

⁴ Senator Julie Raque Adams and Norma Hatfield, Senate Families & Children Committee, 6:49–22:40 (Feb. 6, 2024), <https://ket.org/legislature/archives/2024/regular/senate-families-children-committee>.

38. This way, prospective kinship caregivers would have plenty of time to evaluate and analyze all the complexities surrounding the decision to become a kinship care foster parent, which, for almost all of Kentucky’s kinship caregivers and the children for whom they are caring, is objectively the best kinship caregiving path.

Governor Beshear and CHFS refuse to execute SB 151.

39. This progress made for the benefit of kinship care in Kentucky came to a crashing halt on April 10, 2024.

40. On that day, Governor Beshear informed the General Assembly that he had no intention of executing about 24 new laws—SB 151 included—and resolutions, almost all of which he, himself, signed into law. Exhibit 3.

41. Governor Beshear’s novel theory for skirting his constitutional duty to faithfully execute the law, Ky. Const. §§ 69, 81, as the APA understands it, is this: *Fletcher* allows him to refuse to execute a law if he simply makes the untested assertion that he was not given the requisite funds to execute that law. Exhibit 3.

42. This theory has been explicitly adopted by CHFS in its refusal to execute SB 151.⁵ Relying on Governor Beshear’s *Fletcher* argument, CHFS

⁵ Commissioner Dennis, Interim Joint Committee on Families & Children, 57:30–1:11:00 (June 19, 2024), <https://ket.org/legislature/archives/2024/interim/interim-joint-committee-on-families-and-children-td3355>; CHFS Secretary Eric Friedlander, Interim Joint Committee on Families & Children, 46:46–1:31:30 (July 30, 2024), <https://ket.org/legislature/archives/2024/interim/interim-joint-committee-on-families-children-5z6pt3>.

believes that it doesn't have to execute SB 151 as long as it makes the untested assertion that it doesn't have the requisite funds to do so.

Auditor Ball steps in to see what needs to be done.

43. Upon this public refusal to implement SB 151, Kentuckians came to the APA and Auditor Ball, who was already keeping an eye on this development herself, with concerns about the veracity of Governor Beshear and CHFS's position. These concerns boil down to two main questions.

44. First, does SB 151 really come with the \$19.7 million price tag that Governor Beshear and CHFS say it does? Exhibit 3.

45. Second, does CHFS really not have the funds to execute SB 151, regardless of SB 151's true cost?

46. Because of SB 151's importance, coupled with the resources and expertise of the APA to answer these questions, Auditor Ball launched an investigation into Governor Beshear and CHFS's refusal to execute SB 151.

47. The investigation is meant to answer those two questions so that the APA can show either that: 1) CHFS has the money to execute SB 151, regardless of its true cost; or 2) the General Assembly needs to appropriate more funds to CHFS so it and Governor Beshear can execute SB 151.

48. The APA began that investigation on October 23, 2024, in hopes of forging a path forward for kinship caregivers and the children for whom they are caring to benefit from SB 151.⁶

The investigation is now stalled because of CHFS's obstruction.

49. The APA is almost finished with its investigation.

50. But it now needs information from CHFS that it cannot obtain from anyone but CHFS.

51. To begin obtaining that information, the APA sent an engagement letter to CHFS on April 4, 2025. Exhibit 4.

52. This letter informed CHFS of the next step of the APA's investigatory process and outlined initial additional information needed by the APA for its investigation. *Id.*

53. Having heard nothing from CHFS for almost a week, the APA sent follow-up correspondence to CHFS on April 10. Exhibit 5.

54. This correspondence informed CHFS that the APA needed to schedule an entrance conference with CHFS to begin collecting information and conducting interviews with staff. *Id.*

55. On April 11, CHFS sent a letter to the APA making it clear that CHFS has no intention of cooperating with or participating in any further

⁶ Auditor Allison Ball, Interim Joint Committee on Families & Children, 2:40–8:25 (Oct. 23, 2024), <https://ket.org/legislature/archives/2024/interim/interim-joint-committee-on-families-and-children-svd5r7>.

investigation by the APA into whether Governor Beshear and CHFS can execute SB 151. Exhibits 6, 7.

56. CHFS’s reasoning is that because it allegedly does not have the money to execute SB 151, and Governor Beshear and CHFS must execute laws only for which they have sufficient funds, the APA *can’t even investigate* CHFS to determine if CHFS’s assertions about its financial situation are true. Exhibit 7. In other words, CHFS is now using Governor Beshear’s *Fletcher* argument, Exhibit 3, to directly challenge the investigatory authority of the APA.

57. In the words of CHFS: “Any further inquiry into the Cabinet’s inability to implement the unfunded mandated [sic], Senate Bill 151, is inappropriate and unnecessary.” Exhibit 7.

The APA needs more information from CHFS.

58. The APA is at the point in its investigation where it needs records and information that it can gather only by asking and receiving it directly from CHFS.

59. For example, to determine whether CHFS has discretionary funds to put toward executing SB 151, the APA needs CHFS’s records and communications “pertaining to and showing [the Department for Community Based Services]’⁷ decision-making for when, how much, for what purpose, and

⁷ The Department for Community Based Services (“DCBS”) is the entity within CHFS that CHFS has designated as responsible for directly executing SB 151.

why certain unrestricted funds became obligated in fiscal year 2025.” Exhibit 4 at 3.

60. This information will help the APA discern whether DCBS has discretionary funds that it can use to execute SB 151 and whether DCBS is making unnecessary expenditures when it should be putting that money toward executing SB 151.

61. But, without any legal basis, CHFS has refused to provide responsive information to the APA. Exhibit 7.

62. As another example, the APA requested all of DCBS’s active contracts with vendors. Exhibit 4 at 3.

63. This information will assist the APA in discerning whether DCBS maintains unnecessary or wasteful contracts with third parties.

64. CHFS claims that these contracts are available on the Finance and Administration Cabinet’s transparency website. Exhibit 7.

65. However, the APA has been unable to locate on that website (even before CHFS suggested it, which is why the APA asked CHFS directly for this information) numerous contracts with vendors whose names appear as having received public funds on DCBS’s expenditure reports.

66. As a final example, the APA needs to interview various individuals within CHFS to gather more detailed information about numerous expenditures listed on DCBS’s expenditure reports. Exhibit 4 at 3.

67. The APA needs this information to determine whether certain DCBS expenditures were and continue to be unnecessary and can be put toward executing SB 151 instead.

68. But CHFS is refusing to cooperate with the APA's examination by obstructing the APA's access to internal CHFS information for review and CHFS employees for interviews. Exhibit 7.

The crux of this case.

69. It is now, then, for this Court to decide two things.

70. First, does *Fletcher* allow Governor Beshear and CHFS to refuse to carry out and abide by the Commonwealth's laws, including SB 151 and the APA's statutory authority outlined in KRS Chapter 43?

71. Second, can Governor Beshear and CHFS prevent the APA from investigating the Governor and CHFS's ability to execute SB 151?

72. The answers to both of those questions should be no. The Kentucky Constitution requires Governor Beshear and CHFS to do whatever it takes to carry out and abide by all of the Commonwealth's laws. And the Governor and CHFS have no authority whatsoever to preclude the APA from exercising its investigatory authority to determine if SB 151 can be executed.

COUNT I – DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF:
Governor Beshear and CHFS must faithfully execute the law.

73. The APA incorporates all previous paragraphs by reference.

74. Section 69 of the Kentucky Constitution places "[t]he supreme executive power of the Commonwealth" in the hands of Governor Beshear.

75. Section 81 of the Kentucky Constitution requires Governor Beshear to use this authority to “take care that the laws be faithfully executed.”

76. Under the plain text of these constitutional provisions, Governor Beshear *must* ensure that his cabinets—like CHFS—execute and follow the law.

77. Right now, Governor Beshear and his various cabinets and administrative agencies are violating the mandates of these constitutional provisions by refusing to execute, follow, and adhere to numerous laws. Exhibits 3, 11.

78. The laws that Governor Beshear and CHFS are refusing to execute, follow, and adhere to include both SB 151 and KRS Chapter 43, the latter of which lays out the authority of the APA to examine and investigate the conduct of state agencies and officers like CHFS and Governor Beshear himself.

79. More specifically, the APA, as a constitutionally established office, Ky. Const. § 91, is responsible for the “auditing of the . . . performance of all spending agencies of the state.” KRS 43.050(1).

80. The APA has the authority to “[a]udit . . . at such . . . times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the

handling of any state funds, the accounts, records, and transactions of the budget units, and the general accounts of the state.” KRS 43.050(2)(a).

81. The APA has the authority to “[e]xamine periodically the performance, management, conduct, and condition of all . . . state agencies. The examinations shall give special attention to the faithful and economical application of any money appropriated by the state to the . . . state agency examined.” KRS 43.050(2)(c).

82. The APA has the authority to “[i]nvestigate the means of accounting for, controlling, and [e]nsuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.” KRS 43.050(2)(h).

83. The APA has the authority to “[a]udit the statements of financial condition and operations of the state government, and certify in writing the results of the audit and examination with the comments [it] deems necessary for the information of the General Assembly.” KRS 43.050(2)(i).

84. The APA has the authority to “[r]eport immediately in writing to the Governor, the Legislative Research Commission, and the secretary of the Finance and Administration Cabinet, any unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure, or practice is contemplated, and any obstruction of the Auditor or his agents

during the conduct of any audit or investigation of a state agency.” KRS 43.050(2)(j).

85. And finally, the APA has the authority to “investigate and examine into the conduct of all state . . . officers who are authorized to receive, collect, or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.” KRS 43.050(3).

86. In short, all of this authority allows the APA to examine and investigate whether Governor Beshear and CHFS can execute SB 151.

87. The APA’s authority in this regard is backed by the statutory responsibility of state agencies and officers, like CHFS and Governor Beshear, to give the APA whatever it needs during the APA’s examinations and investigations.

88. More specifically, the APA “shall have access to and may examine all books, accounts, reports, vouchers, correspondence files, records, money and property of any state agency.” KRS 43.080(1).

89. For the Governor and CHFS’s part, “[e]very officer or employee of any such agency having such records or property in his or her possession or under his or her control shall permit access to and examination of them upon the request of the [APA].” *Id.*

90. The APA may also “require information on oath from any person touching any matters relative to any account or matter that the [APA] is required or authorized to state, audit, investigate, review, or settle.” KRS 43.080(3).

91. Finally, the APA may “issue process and compel the attendance of witnesses and administer oaths and compel witnesses to testify in any of the audits, reviews, or investigations the [APA] is authorized to make.” KRS 43.080(4).

92. So Governor Beshear and CHFS must give the APA what it asks for.

93. And Governor Beshear must ensure that his cabinets, like CHFS, give the APA what it asks for.

94. The only argument that Governor Beshear and CHFS have offered to justify refusing to execute SB 151 and abide by all of the APA’s statutory authority outlined above is their *Fletcher* argument.

95. As the APA understands it, this argument is that Governor Beshear and his agencies not only do not have to execute laws that they allege cost money that they allegedly don’t have, but also that the APA does not even have the authority to investigate the veracity of those allegations. Exhibits 3, 7, 11.

96. This position finds no support in Kentucky law.

97. Even *Fletcher* itself does not support this position. In fact, *Fletcher* itself notes that even “[i]f the legislative department fails to appropriate funds deemed sufficient to operate the executive department at a desired level of services, the executive department must serve the citizenry as best it can with what it is given.” 163 S.W.3d at 873.

98. In other words, Governor Beshear and CHFS must use what the General Assembly has given them to execute duly enacted laws like SB 151.

99. This means doing whatever it takes to allocate sufficient funds to execute those laws.

100. By contrast, neither *Fletcher* nor any other authority hold that Governor Beshear and CHFS can refuse to execute certain laws for which they simply allege have a particular cost that they allegedly cannot pay for.

101. Nor does *Fletcher* or any other authority somehow abrogate the APA’s authority to examine and investigate the veracity of those contentions.

102. For all of these reasons, the APA respectfully requests that the Court issue a declaration that neither *Fletcher* nor any other source of authority allows Governor Beshear and CHFS to refuse to execute or flout the General Assembly’s duly enacted laws, including SB 151 and KRS Chapter 43. This declaration should also say that, to abide by their constitutional duty to execute the law, Governor Beshear and CHFS must figure out a way to execute all of the General Assembly’s laws using the funding they have.

103. The APA additionally requests that the Court issue a declaration that neither *Fletcher* nor any other source of authority allows Governor Beshear and CHFS to refuse to participate in and defy the APA’s audit, examination, and investigatory authority. In short, the APA respectfully requests a declaration that Governor Beshear and CHFS must give the APA what it asks for.

104. And pursuant to CR 65, the APA respectfully requests that the Court issue injunctive relief forcing Governor Beshear and CHFS to execute, follow, and abide by the General Assembly’s laws, including SB 151 and KRS Chapter 43. The APA respectfully requests that this injunctive relief also requires Governor Beshear and CHFS to provide the APA with whatever information it asks for—whatever documentation, information, and interviews the APA needs to complete its audits, examinations, and investigations.

PRAYER FOR RELIEF

In accordance with everything discussed above, the Auditor of Public Accounts requests the following relief:

A. A declaration that neither *Fletcher v. Commonwealth*, 163 S.W.3d 852 (Ky. 2005), nor any other source of authority allows Governor Andrew Graham Beshear and the Cabinet for Health and Family Services to refuse to execute, follow, and abide by the General Assembly’s duly enacted laws, including 2024 Senate Bill 151 and KRS Chapter 43;

B. A declaration that, to abide by their constitutional duty to execute the law, Governor Beshear and CHFS must do what it takes to execute all of the General Assembly's laws using the funding they have;

C. A declaration that neither *Fletcher* nor any other source of authority allows Governor Beshear and CHFS to refuse to participate in and defy the APA's audit, examination, and investigatory authority;

D. A declaration that Governor Beshear and CHFS must give the APA what it asks for—whatever documentation, information, and interviews it needs to complete its audits, examinations, and investigations.

E. Injunctive relief effectuating all of the aforementioned declarations, namely, injunctive relief (1) forcing Governor Beshear and CHFS to execute, follow, and abide by the General Assembly's laws, including SB 151 and KRS Chapter 43; (2) prohibiting Governor Beshear and CHFS from refusing to participate in and defy the APA's audit, examination, and investigatory authority; and (3) requiring Governor Beshear and CHFS to give the APA what it asks for—whatever documentation, information, and interviews it needs to complete its audits, examinations, and investigations.

F. All fees and costs associated with this lawsuit; and

G. Any other relief to which the Auditor of Public Accounts is entitled.

Respectfully submitted,

/s/ Alexander Y. Magera

Alexander Y. Magera (No. 97708)

Jeremy Sylvester (No. 92771)

Savannah Baker (No. 99492)

Office of the Auditor of Public Accounts

209 St. Clair Street

Frankfort, Kentucky 40601

Phone: (502) 564-5841

Alexander.Magera@ky.gov

Jeremy.Sylvester@ky.gov

Savannah.Baker@ky.gov

Counsel for Auditor Ball

Exhibit 1

KINSHIP ACROSS KENTUCKY:

Recommendations from **Caregiver Voices** in 2024

CE48E6D9-8A16-4F32-A74D-75686437AD88 : 000024 of 000090



AUTHORS

Lauren Bowling, Casey Lane, and
Dr. Shannon Moody



A SPECIAL THANK YOU TO CASEY FAMILY PROGRAMS

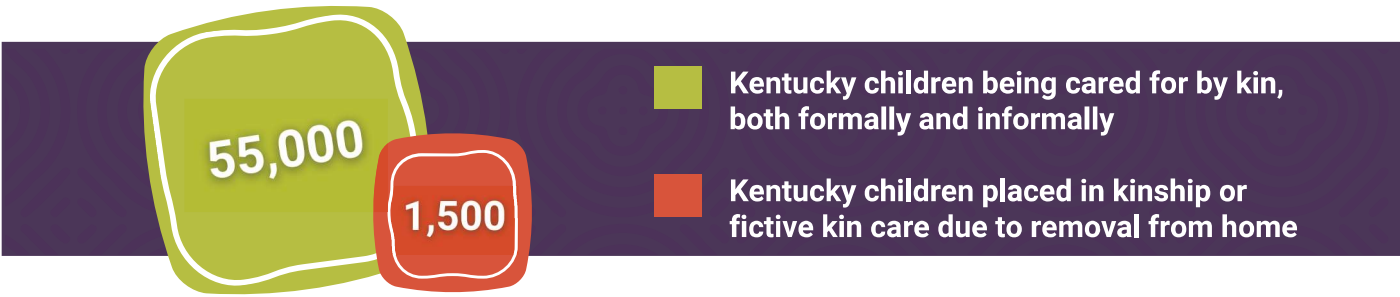
Introduction

Through life-altering and often traumatic experiences, such as separation from a parent, kinship and fictive kin caregivers are able to provide a familiar, stable, and nurturing temporary or permanent home for youth that preserves familial bonds and cultural connections.¹

Kinship care includes children who were placed in the care of a relative or trusted family friend (known as fictive kin) through foster care or legal custody arrangements by the Department of Community Based Services (DCBS) or court intervention. It also includes those living in informal arrangements, which can occur outside of DCBS and court involvement.

Formal:	Children who live with relatives or close family friends. <u>DCBS is involved.</u>
Informal:	Children who live with relatives or close family friends. <u>DCBS is not involved.</u>
Fictive kin:	Children who are placed with close family friends or other trusted adult with a connection to the youth or family.

According to the latest data, an estimated 55,000 Kentucky children are being raised by a relative or fictive kin, generally termed “kinship care.”² In 2023, as many as 1,500 Kentucky children were placed in a relative or fictive kin home by DCBS. Kentucky’s known prevalence of kinship care is 6%, which is twice the national average.³



While there is less data on informal or private kinship arrangements, children transitioning to kin and fictive kin homes experience less placement disruptions than youth in foster care. Utilizing kinship placements as an alternative to foster care serves to minimize additional trauma for youth that can often compound to create more mental, behavioral, and physical health concerns and barriers throughout life.⁴ Research continues to confirm that, in most instances, kinship care is the best option to promote optimal overall wellbeing for children who cannot be with their parents.

Kentucky’s known prevalence of kinship care is 6%, which is twice the national average.



Children in kinship care show more positive behavioral and mental health outcomes than non-kinship foster and adoptive families.

However, their counterparts have better access to resources and support.

While children in kinship care show more positive behavioral and mental health outcomes, non-kinship foster and adoptive families may have better access to resources and support.⁵ Considering that kinship caregivers are often grandparents or older relatives, they are more likely to be retired or use Social Security benefits and rely on low and fixed incomes.

Kinship families have less connections with DCBS or other social service agencies as many of these are informal arrangements that are made outside of the child welfare system. Thus, compared to certified or private agency non-kin foster parents, kinship and fictive kin caregivers may have less familiarity with navigating available resources, with less programs they are eligible for and fewer support networks.

Kentucky's own history of kinship care demonstrates the disparities in support between kinship and non-kinship foster and adoptive parents, and how those disparities may negatively influence outcomes for Kentucky children. In 2013, a moratorium was placed on the Kinship Care Program that previously allotted monthly payments of \$300 per child to kinship caregivers stepping in as an alternative to foster care, due to state budget constraints.⁶ While kinship caregivers were not permitted the same access to financial support as non-relative foster and subsidized adoptive parents, the number of children in kinship care still saw an increase by 3% between 2013-2017, and children placed in non-kin foster care grew by 4.5% in the same time period.⁷

Beginning in 2019, kinship and fictive-kin parents were able to receive a small daily payment while awaiting DCBS approval as a child-specific foster home.⁸ However, payments for approved and/or certified child-specific foster homes remained less than the basic amount for non-relative/fictive kin foster parents until recently.⁹

Kentucky is likely still seeing the long-term implications of the disparities and stagnation in progress towards kinship support, as recent years have seen heightened concerns of foster home and post-adoption disruptions, and difficulty placing children due to lack of foster homes.¹⁰



The following report was developed by Kentucky Youth Advocates (KYA), in partnership with the Kinship Families Coalition of Kentucky and funded by Casey Family Programs (CFP), to raise awareness of the unique needs and challenges faced by kinship families. The study aimed to identify gaps in services and resources, as well as discuss any opportunities for improvements to policies, practices, or programs that can ensure kinship families are well supported in efforts to promote the best outcomes for Kentucky children.

Asset Map

KYA and the Kinship Families Coalition of Kentucky compiled a list of resources for kinship families, with a special focus on resources that could assist with the following categories: Housing/Utilities, Basic Needs (food, clothing, and household goods), Education, Legal & Advocacy Services, Support Groups, and Medical/Mental/Behavioral Health. Resources were compiled from a previous resource list by Kinship Families Coalition of Kentucky, KYA staff submissions, submissions from partner agencies for this kinship project, as well as submissions from individual participants during the course of the surveys and listening sessions.



From this compiled list of resources, the Kinship Families Coalition of Kentucky has updated an asset map to allow kinship families and service providers to reference and refer to known resources and supports in their area, promoting help-seeking behaviors that can foster resiliency. Sortable and searchable by county and resource type, this map hopes to promote the awareness and accessibility of available resources.

Acknowledging both Kentucky's existing assets and gaps in resources and services can help inform policy, program, and community development. The Kinship Families Coalition of Kentucky's asset map is available at kinshipky.org/search-resources/.

Survey

KYA and the Kinship Families Coalition of Kentucky developed two surveys, one for kinship caregivers and one for service providers of kinship families. Providers were defined as professionals who work with or provide services for children or kinship/fictive kin families (ex. health care providers, school personnel, state/local government, nonprofit agencies, etc.).

The surveys were open to Kentucky residents who identified as kinship/fictive kin caregivers or providers, administered virtually through Survey Monkey. The data was collected from the Survey Monkey responses, analyzed for statewide information, and then disaggregated by region.

Listening Sessions

Date	Time	Region
Tue, April 23	1-3 pm EDT	Eastern Bluegrass
Thu, May 2	10-12 pm EDT	Western Blue
Fri, May 3	10-12 pm EDT	Northwest
Tue, May 7	1-3 pm EDT	Central/Kentucky
Thu, May 9	10-12 pm EDT	East Bluegrass
Fri, May 10	1-3 pm EDT	Western
Thu, May 15	10-12 pm EDT	Central/Kentucky
Thu, May 22	10-12 pm EDT	Northwest
Thu, May 23	6-8 pm EDT	East Bluegrass

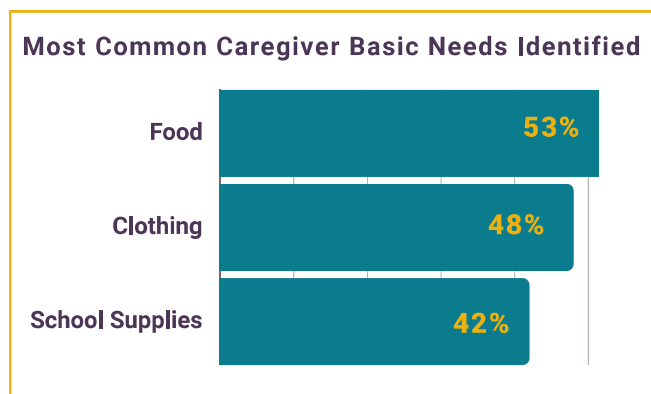
KYA and the Kinship Families Coalition of Kentucky conducted listening sessions in each of the nine DCBS service regions of Kentucky. Participants of the listening sessions consisted of kin and fictive kin caregivers, providers for kinship families, Family Resource and Youth Services Center (FRYSC) workers, Court Appointed Special Advocates (CASA) staff and volunteers, and other community stakeholders with an interest in the cause of kinship care.

Notes were kept by KYA staff during the listening sessions, capturing discussions and direct quotes from listening session participants. KYA staff analyzed listening session notes for themes and disaggregated by region.

Findings

Caregiver Survey Results

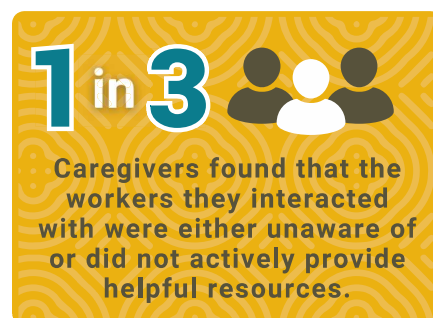
Through 182 survey responses and 101 participants in nine listening sessions, KYA and the Kinship Families Coalition of Kentucky gathered a rich pool of information that better illustrates the situations faced by relative and fictive kin caregivers. While most respondents to the caregiver survey were relative caregivers (92%), Caucasian (92%), and female (98%), every DCBS region was represented, ensuring perspectives across the state were included.



While the specific needs caregivers identified as important varied slightly by region, basic needs, such as food (53%), clothing (48%), and school supplies (42%) were the most consistently mentioned. Financial supports, housing assistance, and information technology were also identified by one-third of participants. Some of the most frequent requests for assistance identified in the listening sessions included peer support, respite care, mental health care, and legal assistance.

Beyond tangible and basic needs, survey and listening session respondents identified other barriers to success. Twelve percent of caregivers felt their age had a negative impact on the services they received. Just over three-fourths of respondents did not have a DCBS caseworker assigned to them. The most common barrier caregivers encountered was that the workers did not either know of or proactively share information and resources that caregivers would benefit from, with nearly one in three identifying this experience.

Agency issues were also a problem—interagency communication, worker availability and experience, and communication with families were all noted to be difficulties. Many families felt like they had no preparation or support once they agreed to become kinship caregivers, one respondent said it felt like “being dropped off on an island alone.”



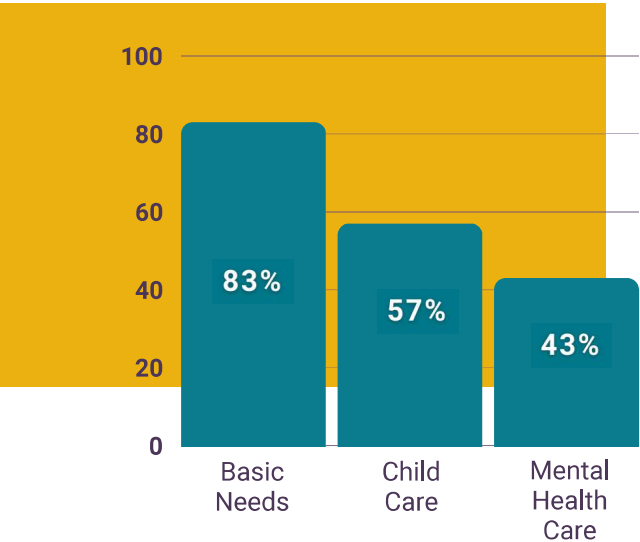
Many families felt like they had no preparation or support once they agreed to become kinship caregivers, one respondent said it felt like “being dropped off on an island alone.”

Half of respondents said they felt they could use mental health assistance for themselves, and 45% for the children they cared for. One-third said they used KTAP, and nine in ten utilized Medicaid. Many families did find assistance, with the most helpful organizations being the Family Resource and Youth Service Centers (FRYSCs) and schools in general (28%). The Kinship Families Coalition of Kentucky and the University of Kentucky KY-KINS were also frequently mentioned organizations that provided support.

Provider Survey Results

Service provider respondents primarily worked for nonprofit organizations (53%), with the second most chosen occupation being school personnel (13%). Less common providers included CASA workers, public health department employees, and university or college employees. The most common services provided by respondents were support groups (47%) and education supports (28%). Many services provided were not listed in our survey and included things like direct services, advocacy, and referral resources.

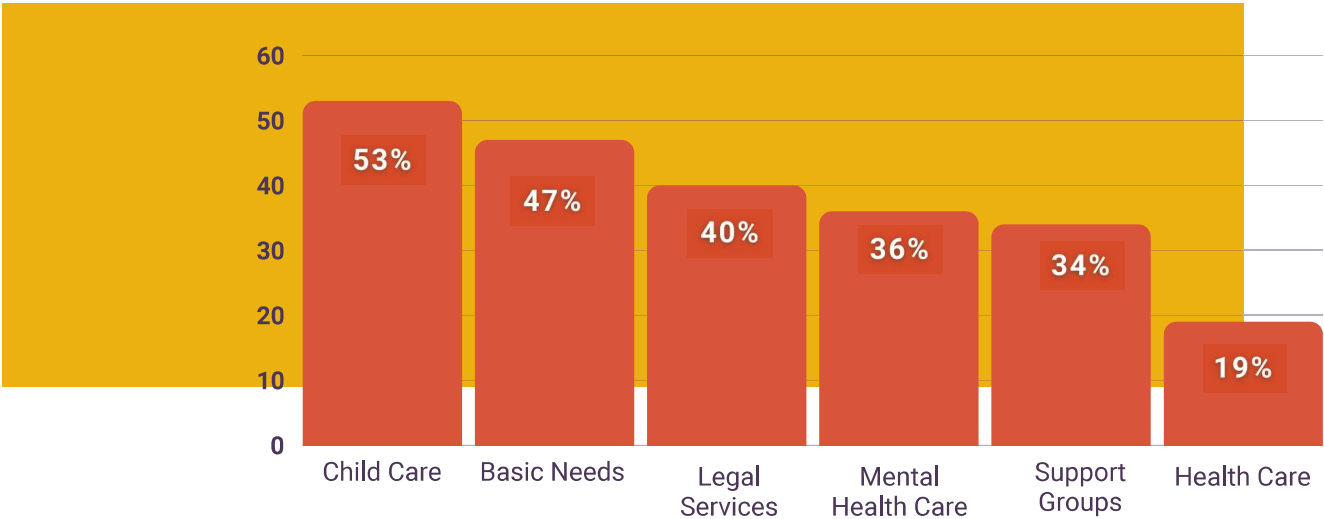
Kinship Family Needs Identified by Service Providers



Similarly to caregivers, service providers noted that the most inadequate resource for caregivers were basic needs (financial supports, food, clothing, etc.), with 83% choosing this option. Child care (57%) and mental health care (43%) were also listed as top priorities for families. Child care (53%) and basic needs (47%) were noted to be the most difficult to access, and mental health care was noted to be hard to obtain (36%).

Many service providers also felt that organized support groups, whether informal (run by caregivers) or formal (run by organizations) were less available, and many of their clients also struggled with health care (19%) and legal services (40%).

Resources Most Difficult to Access Identified by Service Providers



Overwhelmingly, both caregivers and service providers noted a lack of organized support for kinship families, particularly in comparison to foster families.

Recommendations

Based on the findings from the surveys, listening sessions, and a review of literature related to best practices, the Kinship Families Coalition of Kentucky will seek to support the following recommendations for the Kentucky General Assembly, Department for Community Based Services, and community leaders to consider:

System Level Changes

- **Create specialization within DCBS by assigning cases involving kinship families to kinship-specific DCBS workers**, and create subsidized permanent custody workers, similar to the practice of assigning adoption subsidy workers for adoptive families.
- **Change or remove the age of eligibility for the Kentucky Family Caregiver Program**, as well as other programs to encompass younger grandparents or other kin, like adult siblings, aunts, cousins, etc.
- **Incentivize and invest in Family Peer Support services and support groups** for both caregivers and children provided by local organizations including FRYSCs, Cooperative Extension, local libraries, or other agencies or nonprofits. The support groups should be accessible, evidence-informed and in person, including child care and meals.
 - Note: Communities should consider utilizing Opioid Settlement funds to support these families impacted by the opioid epidemic.
- **Expand community-based mentorship opportunities** for youth in kinship care and their caregivers.
- **Provide or facilitate comprehensive reunification services** for kinship families to create opportunities for children to return safely to their birth families, when appropriate.
- **Provide family counseling and mediation services** for kinship families as part of the DCBS case plan.
- **Provide Judges a Bench Card** related to kinship care utilization and needed supports.

Practice Level Changes

- **Increase the frequency and accessibility of trainings** on the unique experiences and needs of kinship families to DCBS staff, private foster care agency staff, and community mental health providers.
 - Note: The Annie E. Casey Foundation offers a five-part training series on [Engaging Kinship Caregivers](#) for agencies to utilize or reference when developing these trainings.
- **Provide comprehensive informational packets and educational materials for new kinship caregivers.** These materials should be provided to kinship caregivers when the option for kinship is first identified including:
 - Commonly used terms among the DCBS and court systems
 - Generalized timeline of how to expect the case to progress
 - Resources and contacts
 - Clear list of benefits and resources that are available to kinship caregivers and the children
 - Health history of child(ren)
 - Training resources including for behavioral health issues and LGBTQIA youth
- **Provide preference options for kinship caregivers on how to receive communication**
- **Utilize best practices to actively seek the most appropriate placement for the child** when identifying kinship and fictive kin caregivers, including addressing disproportionality in the placement of children of color into foster care instead of kinship care.

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- ¹ Annie E. Casey Foundation. (2012). Stepping Up For Kids: What Government and Communities Should Do to Support Kinship Families. <https://www.aecf.org/resources/stepping-up-for-kids>
- ² The Annie E. Casey Foundation. (2023). Children in Kinship Care in Kentucky, 2021-2023. Kids Count Data Center. Retrieved June 25, 2024 from: <https://datacenter.aecf.org/data/tables/10455-children-in-kinship-care?loc=19&loct=2#detailed/2/19/false/2554,2479,2097,1985,1757/any/20160,20161>
- ³ The Annie E. Casey Foundation. (2023). Children in Kinship Care in Kentucky, 2021-2023. Kids Count Data Center. Retrieved June 25, 2024 from: <https://datacenter.aecf.org/data/tables/10455-children-in-kinship-care?loc=19&loct=2#detailed/2/19/false/2554,2479,2097,1985,1757/any/20160,20161>
- ⁴ Bramlett, M. D., Radel, L. F., & Chow, K. (2017). Health and Well-Being of Children in Kinship Care: Findings from the National Survey of Children in Nonparental Care. *Child welfare*, 95(3), 41–60. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5798622/>
- ⁵ Bramlett, M. D., Radel, L. F., & Chow, K. (2017). Health and Well-Being of Children in Kinship Care: Findings from the National Survey of Children in Nonparental Care. *Child welfare*, 95(3), 41–60. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5798622/>
- ⁶ Kinship Families Coalition of Kentucky. (2023). A Kentucky Grandparent and Relative Caregiver Handbook. Retrieved June 25, 2024 from: <https://kinshipky.org/handbook/>
- ⁷ The Annie E. Casey Foundation (2023). Children in Foster Care in Kentucky, 2013-2017. Kids Count Data Center. Retrieved June 25, 2024 from: <https://datacenter.aecf.org/data/tables/7975-children-in-foster-care#detailed/2/any/false/2479,1652,1564,1491/any/15339;>
The Annie E. Casey Foundation (2023). Children in Kinship Care in Kentucky, 2013-2017. Kids Count Data Center. Retrieved June 25, 2024 from: <https://datacenter.aecf.org/data/tables/10454-children-in-kinship-care?loc=19&loct=2#detailed/2/19/false/1687,1652,1564,1491,1443,1218,1049,995/any/20158,20159>
- ⁸ Moody, S. (2019). Kinship Care in Kentucky—What’s New?. Kentucky Youth Advocates. <https://kyyouth.org/kinship-care-in-kentucky-whats-new/>
- ⁹ Department of Community Based Services. (2024). 12.24 Per Diem Rates (Including Specialized Foster Care). *Standards of Practice*, Ch 12. Retrieved June 25, 2024 from: <https://manuals-sp-chfs.ky.gov/chapter12/Pages/12-24.aspx>
- ¹⁰ Battle, W. (2023, Nov 16). Kentucky facing Foster Care crisis, children sleeping in government offices. ABC 13 WBKO News. <https://www.wbko.com/2023/11/17/kentucky-facing-foster-care-crisis-children-sleeping-government-offices/>;
Ford, C. (2023, Jul 20). Kentucky's foster home shortage continues to cause issues. What can be done about it?. LEX-18. <https://www.lex18.com/news/lex-in-depth/kentuckys-foster-home-shortage-continues-to-cause-issues-what-can-be-done-about-it>

Exhibit 2

CHAPTER 85

(SB 151)

AN ACT relating to relative and fictive kin caregivers.

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

➔Section 1. KRS 620.140 is amended to read as follows:

- (1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:
 - (a) Informal adjustment of the case by agreement, which may be entered into at any time. Informal adjustment may include an agreed plan by which:
 1. The parent or other person exercising custodial control or supervision agrees that grounds exist for a finding of dependency, neglect, or abuse, and agrees to the conditions of protective orders under paragraph (b) of this subsection for a duration of up to one (1) year;
 2. The action will be dismissed by the court, without hearing, at the end of the period agreed upon if no motion is brought alleging a violation of a protective order; and
 3. If a motion is brought alleging a violation of a protective order, a hearing will be held at which the parent or other person exercising custodial control or supervision may contest the alleged violation, but may not contest the original grounds for a finding of dependency, neglect, or abuse. If a violation is found to have occurred, the court may consider other dispositional alternatives pursuant to this section;
 - (b) Protective orders, such as the following:
 1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;
 2. Placing the child in his or her own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and
 3. Orders authorized by KRS 403.715 to 403.785 and by KRS Chapter 456;
 - (c) Removal of the child to the custody of an adult relative, fictive kin, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his or her home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child. If a child is to be placed with an adult relative or fictive kin, the **child, if able**, parent, or other person exercising custodial control or supervision shall provide a list to the cabinet of possible persons to be considered;
 - (d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or
 - (e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining twenty (20) years of age. A youth may opt in or out of extended commitment up to two (2) times prior to attaining twenty (20) years of age, with a ninety (90) day grace period between the time he or she exits and then reenters custody so long as there is documentation that his or her request was submitted prior to attaining twenty (20) years of age. The court may grant an extension or reinstatement of a youth's commitment even if the concurrence of the cabinet occurs after the youth attains twenty (20) years of age. Upon receipt of

the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).

- (2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

➔Section 2. KRS 620.142 is amended to read as follows:

- (1) The cabinet shall develop custodial, permanency, and service options, including but not limited to monetary supports, that shall be available to a relative or fictive kin caregiver in the instance that a child, who would otherwise be placed in another out-of-home placement, is placed with him or her due to a cabinet finding that the child is abused, neglected, or dependent, as determined by an assessment or investigation conducted in accordance with this chapter. The custodial, permanency, and service options available to a relative or fictive kin caregiver shall include but not be limited to:
- (a) A notification form that explains and describes the process by which a relative or fictive kin caregiver can be certified as a child-specific foster home and the financial and support benefits that come with that type of placement;
 - (b) A program for a one (1) time monetary benefit as established by an administrative regulation promulgated in accordance with KRS Chapter 13A per child given to the relative or fictive kin caregiver at the time a child is placed with the relative or fictive kin caregiver; and
 - (c) A detailed placement packet that lists all types of supports, financial and otherwise, that are available to a relative or fictive kin caregiver given to the relative or fictive kin caregiver at the time a child is placed with the relative or fictive kin caregiver.
- (2) The cabinet shall disclose to a prospective relative or fictive kin caregiver each of the options established in subsection (1) of this section prior to the child's placement. The prospective relative or fictive kin caregiver shall select the option that best represents the level of care and support needed for the child while the child is receiving treatment and care in the placement with the relative or fictive kin caregiver.
- (3) ***Within one hundred twenty (120) days of a placement made by the cabinet due to a cabinet finding that a child is abused, neglected, dependent, or a status offender, or upon a qualifying event as established in administrative regulation, a relative or fictive kin caregiver may apply to become a relative or fictive kin foster parent for the child in his or her care.***
- (4) The custodial, permanency, and service options required by subsection (1) of this section shall reflect nationally recognized best practices.
- (5)~~[(4)]~~ The cabinet shall maximize services available under federal and state law, including but not limited to Titles IV and XIX of the Social Security Act, to fulfill the requirements of this section.
- (6) ***The cabinet shall, if necessary, seek any state or federal waivers to implement the provisions of subsection (3) of this section.***
- (7)~~[(5)]~~ The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

Signed by Governor April 5, 2024.

Exhibit 3



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

Andy Beshear
GOVERNOR

Capitol Building, Suite 100
700 Capitol Avenue
Frankfort, KY 40601
(502) 564-2611
Fax: (502) 564-2517

April 10, 2024

Dear Members of the House of Representatives and Senate:

I have acted on the bills attached, even though no appropriations were provided in either the bills themselves or in a budget bill. Some of these bills represent good public policy and programs, but lack any of the resources needed to implement them. The estimated costs of these policies and programs were known and communicated, and there is still time in this legislative session to add appropriations in the last two legislative days to rectify the omissions.

In *Fletcher v. Commonwealth*, 163 S.W.2d 852 (2005), the Kentucky Supreme Court established the limitations on implementing statutory policies and programs when the legislature does not appropriate funds. In *Fletcher*, the Court held that “in the absence of a specific appropriation, or a statutory, constitutional, or federal mandate, ... the unambiguous language of Section 230 [of the Kentucky Constitution] prohibits the withdrawal of funds from the State Treasury.” The Court continued by stating, “...the mere existence of a statute that can be implemented only if funded does not mandate an appropriation. ‘[T]he General Assembly is permitted through the reduction or elimination of an appropriation, to effectively eliminate the efficacy of existing statutes’” (quoting *Commonwealth ex rel. Armstrong v. Collins*, 709 S.W.2d 437 (Ky. 1986)).

More recently, the United States District Court for the Western District of Kentucky wrote that “Under Kentucky law, a bill that requires funding to execute but does not contain a funding provision cannot be executed.” *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, and Kentucky, Inc. v. Cameron*, 603 F.Supp.3d 501, 523-24 (W.D. Ky. 2022) (citing *Fletcher*), *vacated and remanded on other grounds by Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, and Kentucky v. Cameron*, 2023 WL 362977 (6th Cir. May 24, 2023).

These holdings are simple: if the legislature creates a policy or program but does not provide funding, it does not intend for the executive branch to perform those services over the biennium.

There are several other bills that I have signed which also impose new costs without an appropriation, but the return of a statutory process that allows increases in appropriations for agency funds, along with the availability of funds, satisfies the appropriation need. Moreover, legislation like Senate Bill 127, which creates a new program, includes the phrase “subject to available funds,” explicitly acknowledging that funding is necessary to implement the bill.

The omission of an appropriation is the same as its elimination. The budget for each agency is put together in great detail combining the costs of current service requirements plus identified additions for certain purposes. If a bill includes new expenditure requirements, it is expected that an appropriation will be provided for its implementation. The benefit of the General Assembly's documentation of what is in the budget makes plain whether the new requirements were taken into account. These bills are lacking the appropriations necessary to implement these legislative acts.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Beshear', with a long horizontal stroke extending to the right.

Andy Beshear
Governor

Attachment

Bill	Title	Amount of Fiscal Impact- State Funds	LRC request for fiscal note	Fiscal Note on LRC website	Source
HB 8	An ACT relating to fiscal matters	\$11,864,400	no	not for costs	Finance-Revenue
HB 15	An ACT relating to consumer data privacy	\$900,000	yes	yes	Attorney General
HB 52	An ACT relating to coverage for cancer detection	\$9,952,800	yes	no	Ky Employees' Health Plan
HB 87	An ACT relating to adoption records	\$130,000	yes	no	CHFS-Community Based Services
HB 115	An ACT relating to coverage for breast examinations	\$2,000,000	yes	no	Ky Employees' Health Plan
HB 271	An ACT relating to child abuse	\$43,000,000	yes	no	CHFS-Community Based Services
HB 293	An ACT relating to the regulation of kratom	\$1,600,000	no	no	CHFS-Public Health
HB 375	An ACT relating to motor vehicles	\$3,000,000	yes	no	Transportation
HB 403	An ACT relating to real property boards	\$1,300,000	no	no	Public Protection Cabinet
HB 453	An ACT relating to child protection	\$200,000	yes	no	CHFS-Community Based Services
HB 561	An ACT relating to child care	\$965,000	yes	no	Economic Development
HB 611	An ACT relating to truancy	\$34,000,000	no	no	CHFS-Community Based Services
HB 825	An ACT relating to an audit of the Ky Dept of Education	\$2,000,000	no	no	Bill Sponsor
SB 2	An ACT relating to student safety	\$220,000	no	yes	Homeland Security
SB 71	An ACT relating to health services	\$1,800,000	yes	no	CHFS-Medicaid
SB 128	An ACT relating to youth employment programs	\$366,000	yes	no	Education and Labor
SB 151	An ACT relating to relative and fictive kin caregivers	\$19,700,000	yes	no	CHFS-Community Based Services
SB 198	An ACT relating to nuclear energy development	\$410,000	yes	no	Economic Development Cabinet
SB 199	An ACT relating to motor vehicles	\$3,000,000	yes	no	Transportation
SB 240	An ACT relating to child care	\$11,635,000	yes	no	CHFS-Community Based Services
SB 319	An ACT relating to victims of crime	\$3,300,000	yes	no	Public Protection-Office of Claims
SB 349	An ACT relating to energy policy	\$1,143,500	yes	no	Public Service Commission
SJR 140	An JOINT RESOLUTION directing the Public Service Commission to make all staffing, organizational, and administrative preparations necessary to be ready to discharge its regulatory duties relating to applications for the siting and construction of nuclear energy facilities in the Commonwealth	\$500,000	yes	no	Public Service Commission
SJR 149	A JOINT RESOLUTION directing the Energy and Environment Cabinet to provide guidance and consultation on best management practices for PFAS to entities that discharge directly or indirectly into Kentucky's waterways	\$168,000	yes	no	Energy and Environment Cabinet
	Total	\$153,154,700			

Exhibit 4



ALLISON BALL
AUDITOR OF PUBLIC ACCOUNTS

April 4, 2025

Secretary Eric Friedlander
Cabinet of Health and Family Services
275 East Main Street, 5W-A
Frankfort, KY 40621

Dear Secretary Friedlander:

On November 8, 2024, the Kentucky Auditor of Public Accounts (APA) notified the Cabinet for Health and Family Services (CHFS) of our intent to perform a preliminary assessment of the Office of the Governor's and CHFS's execution of 2024 Senate Bill 151 (SB 151). Based on this preliminary assessment, we identified issues for which additional examination procedures are warranted. As such, the APA is conducting a limited-scope special examination to further address these matters but may expand the scope of the examination if circumstances warrant.

The initial scope will cover the period of November 1, 2023, through April 1, 2025, but may vary depending on available documentation and data. Additionally, at its discretion, the APA may expand the subject areas or duration of this examination to address high-risk areas identified during fieldwork.

The Objectives of Special Examinations

Special examinations are conducted by the APA to examine a particular issue with the finances or operations of a particular entity. These examinations are designed to provide an assessment of the facts obtained during the examination. In making this assessment, auditors exercise their professional judgment and maintain professional skepticism throughout the examination. They will also, among other things, determine whether SB 151 can be executed.

Because of the inherent limitations of an examination, together with the inherent limitations of internal control, an unavoidable risk that some deficiencies or material weaknesses may not be detected exists, even though the examination is properly planned and performed. Please note that the determination of abuse is subjective, and *Government Auditing Standards* does not require auditors to detect abuse.

Our responsibility as auditors is limited to the period covered by our examination and does not extend to any other periods. As stated above, the time period covered in this examination is



November 1, 2023, through April 1, 2025. However, this time period may be extended at the APA's discretion if necessary.

Compliance with Laws and Regulations

The objective of our examination will not be to provide an opinion on any financial statements but to review a specific matter brought to our attention. As a result, during the limited examination, we will perform tests and procedures to determine compliance with applicable policies and procedures, laws, regulations, contracts, and agreements.

Management Responsibilities

KRS 43.080 mandates that the APA has access to and may examine all "books, accounts, reports, vouchers, correspondence files, records, money, and property" in the course of its investigation and that every officer or employee having such records or property in his or her possession or under his or her control permit access to and examination of such upon the APA's request. As such, our engagement will be conducted with the understanding that management has a responsibility to provide the APA with:

- Access to all information the APA may request for the purpose of the special examination;
- Unrestricted access to current and former personnel from whom the APA determines it is necessary to obtain evidence; and
- A liaison who can promptly provide requested documentation to the APA and answer questions. The APA has traditionally communicated with Leesa Harrison and Astrud Masterson in this regard but is happy to communicate with whomever you designate.

We understand that your employees will prepare all materials we request and will locate any documents or support for any other transactions we select for testing. In addition, we will require suitable workspace and parking for APA auditors as needed to conduct interviews of staff, review documents, or perform other examination-related work. APA staff and your liaison will coordinate accessibility.

As part of our process, we may request from management written confirmation concerning representations made to us in connection with the examination. We may request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

Documentation Request

As part of this engagement, we would like to make a follow-up request for information and documentation that we did not receive in response to our initial November 8 preliminary assessment letter request. This information includes the following:

1. All communications associated with DCBS's budget request and the creation of its budget.
2. All internal CHFS communications and external communications between CHFS and the Governor's Office, CHFS and the Office of State Budget Director, CHFS and the General Assembly, CHFS and the federal government, and CHFS and any other party pertaining to the execution of SB 151, including documents exchanged in the course of those communications.
3. All information pertaining to CHFS's and the Governor's Office's execution of SB 151.
4. All documentation, including communications, pertaining to and showing itemized accounts of DCBS expenditures.
5. All documentation, including communications, pertaining to and showing DCBS's decision-making for when, how much, for what purpose, and why certain unrestricted funds became obligated in fiscal year 2025.

We would also like to initially request the following information:

1. DCBS's organizational chart.
2. A list of every DCBS officer and employee and his or her salary, status, title, organizational unit, and job duties.
3. All active DCBS's contracts with vendors.
4. All information regarding new programs DCBS created during fiscal year 2025.

Finally, we would like to notify you that we will be reaching out to schedule interviews with individuals within CHFS and DCBS.

Reporting

Upon completion of the special examination, we will issue a report describing any findings identified and recommendations offered to address the matters described within those findings. Our report will be addressed to the agency head of CHFS. Circumstances may arise in which our report may differ from its expected form and content based on the results of our examination.

In accordance with KRS 43.090(1), CHFS will have an opportunity to provide a response to the draft report within 15 days of receipt of the draft report. Furthermore, CHFS will be required to provide a corrective action plan to the APA and the state legislature within 60 days of the report's release. The estimated period for completion of this engagement is dependent upon multiple

factors, including timely receipt of requested information and cooperation from management and staff.

Engagement Administration

During the engagement, we may communicate with you or your personnel via e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

Shawwna Crouse, Deputy State Auditor, is the engagement partner for this engagement. The Deputy State Auditor is responsible for direction, supervision, and review for all engagements performed by the APA. Alexander Magera, Executive Director of the Office of Special Examinations, will assist the Deputy State Auditor with whatever tasks she needs him to perform.

Our fee for these services will be at our standard \$84/hour rate plus out-of-pocket costs. Our invoices for these fees will be rendered at the completion of the examination unless other arrangements are made between CHFS and the APA for interim billing. The total cost of the examination is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the examination.

During the course of the examination, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

You should inform us of facts that may affect the financial and operational activities of which you may become aware during the period of the special examination to the date of the auditor's report.

It is our policy to keep records related to this examination for a period of time after the examination. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting a finding, we will contact the party or parties contesting the finding for guidance prior to destroying the documentation. However, the APA does not keep any original client records, so we will return those to you at the completion of the services rendered under this engagement. When records are returned to you, it is your responsibility to retain and protect your records for possible future use, including potential examination by government or regulatory agencies.

At the conclusion of our engagement, we may communicate to you the following significant findings from the examination:

- Significant issues, if any, arising from the examination that were discussed, or the subject of correspondence, with management;
- Disagreements with management, if any; and

- Other findings or issues, if any, arising from the examination that are, in our professional judgment, significant and relevant to CHFS's operations.

The documentation for this engagement is the property of the APA and constitutes confidential information. However, we may be requested to make certain documentation available to other regulators pursuant to authority given to them by law or regulation, or to peer reviewers. If requested, access to such documentation will be provided under the supervision of the APA's personnel. Furthermore, upon request, we may provide copies of selected documentation to other regulatory agencies. These regulatory agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

We greatly appreciate your time and attention to this matter and sincerely appreciate any assistance you and your staff will provide during the course of our work. If you have any questions, please contact Alexander Magera, Executive Director of the Office of Special Examinations, at alexander.magera@ky.gov.

Sincerely,



Shannna Crouse, CPA
Deputy State Auditor

Exhibit 5

From: [Crouse, Shawwna \(APA\)](#)
To: [Friedlander, Eric C \(CHFS Office of the Secretary\)](#); [Dennis, Lesa M \(CHFS DCBS\)](#)
Cc: [Duke, Wesley W \(CHFS OLS\)](#); [Magera, Alexander Y \(APA\)](#)
Subject: RE: Examination Notification
Date: Thursday, April 10, 2025 4:40:29 PM
Attachments: [image001.png](#)
Importance: High

Hi - Following up on the notification we sent this past Friday, I wanted to let you know what the next step in our process is. We need to schedule an in-person entrance conference between us, the both of you, and the individual or individuals that you designate as your point(s) of contact. We will go over some examination information that will be helpful for your offices to know, make additional document requests, and ask the individuals present some questions about some general information we have received and obtained.

Here are some dates and times next week that work for us:

1. All day on Monday, April 14th;
2. From 9 a.m. to noon on Tuesday, April 15th;
3. From 9 a.m. to 10:30 a.m. and 1 p.m. to 4 p.m. on Thursday, April 17th.

Let us know what works best for you; we are happy to accommodate.

Best,

Shawwna **Ingram Crouse**
Deputy State Auditor
Kentucky Auditor of Public Accounts
(502)209-2902

From: Magera, Alexander Y (APA) <alexander.magera@ky.gov>
Sent: Friday, April 4, 2025 5:06 PM
To: Friedlander, Eric C (CHFS Office of the Secretary) <Eric.Friedlander@ky.gov>; Dennis, Lesa M (CHFS DCBS) <Lesa.Dennis@ky.gov>
Cc: Crouse, Shawwna (APA) <shawwna.crouse@ky.gov>; Duke, Wesley W (CHFS OLS) <WesleyW.Duke@ky.gov>
Subject: Examination Notification

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Secretary Friedlander and Commissioner Dennis,

Attached is an engagement letter from the Auditor of Public Accounts to CHFS notifying you of our intent to proceed formally with the next step of our examination into the Office of the Governor's and CHFS's ability to execute 2024 Senate Bill 151.

In short, the letter explains that the APA is requesting additional documentation and

information and would like to conduct interviews with a number of individuals within CHFS and DCBS. Normally, when we audit or conduct an examination of CHFS, we work with either Leesa Harrison or Astrud Masterson as CHFS's office liaison to coordinate document and information transmission and to schedule interviews. However, we are amenable to working with whomever you choose.

If you would like to discuss this matter and work toward a solution to execute SB 151 outside of a formal engagement, let us know—we are happy to do so. Otherwise, we will proceed accordingly with our examination.

Feel free to reach out at any time with any questions or concerns you have.



Alexander Magera

General Counsel

Auditor of Public Accounts

(502)209-2921

www.auditor.ky.gov

This message, and any attachments, is for the intended recipient(s) only. It may contain personal information or information which is confidential or privileged. It is for the exclusive use of the intended recipient(s).

Exhibit 6

From: [Duke, Wesley W \(CHFS OLS\)](#)
To: [Crouse, Shawna \(APA\)](#); [Magera, Alexander Y \(APA\)](#)
Cc: [Friedlander, Eric C \(CHFS Office of the Secretary\)](#); [Dennis, Lesa M \(CHFS DCBS\)](#)
Date: Friday, April 11, 2025 3:57:58 PM
Attachments: [APA engagement response.pdf](#)
[Letter to ACF for SB 151 2024.pdf](#)
[HHS responses to SB 151 inquiry.pdf](#)
[image001.png](#)

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Please see the attached response to your correspondence and attachments

Wesley W. Duke
General Counsel
Cabinet For Health and Family Services
275 East Main Street
Frankfort, Kentucky 40621
502-564-7042
502-545-7663-Cell

Under Kentucky Rule of Evidence 503, this communication may be confidential and is not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of Legal Services. This communication may contain information which is confidential. It is for the exclusive use of the intended recipient(s). If you are not the intended recipient(s) please note that any form of distribution, copying, forwarding or use of this communication or the information therein is strictly prohibited and may be unlawful. If you have received this communication in error please return it to the sender then delete the communication and destroy any copies. It should be expressly understood that the Office of Legal Services cannot guarantee the security of the transmission and assumes no responsibility for intentional or accidental receipt by a third party.

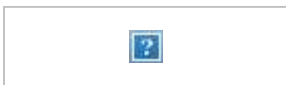


Exhibit 7



**CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF LEGAL SERVICES**

Andy Beshear
Governor

275 East Main Street, 5W-B
Frankfort, KY 40621
502-564-7905
502-564-7573
www.chfs.ky.gov

Eric C. Friedlander
Secretary

Wesley W. Duke
General Counsel

April 11, 2024

Shawnna Crouse
Deputy State Auditor
Auditor of Public Accounts
209 St. Clair St.
Frankfort, KY 40601

Dear Ms. Crouse,

This letter is to response to your engagement letter sent to Secretary Friedlander on April 4, 2025 announcing the intent of the Auditor of Public Accounts to conduct a “limited scope special examination” into the Cabinet for Health and Family Services’ execution of SB 151 passed during the 2024 Regular Session without an appropriation. Any further inquiry into the Cabinet’s inability to implement the unfunded mandated, Senate Bill 151, is inappropriate and unnecessary. The General Assembly failed to appropriate funds for implementation of Senate Bill 151, which the Cabinet and the Governor made the General Assembly aware of before and after its passage. The General Assembly still failed to act. In response to your office’s “preliminary assessment” in November 2024, the Cabinet provided you with the documents and information responsive to your requests. Those documents and that information remain the only relevant items concerning the Cabinet’s inability to implement Senate Bill 151 without any appropriation from the legislature.

With regard to your latest requests, please see the below responses.

For the five numbered requests for additional information:

1. The documents requested were sent to you in the information provided in November, 2024.
2. Again, the Cabinet is unable to implement Senate Bill 151 because of the General Assembly’s failure to provide a budget appropriation for the bill. As such, there are no documents responsive to this request. However, the Cabinet did seek guidance from our federal partners on this issue and they provided the attached letter, which the Cabinet provided to members of the General Assembly.
3. Again, the Cabinet is unable to implement Senate Bill 151 because of the General Assembly’s failure to provide a budget appropriation for the bill. Therefore, there are no documents responsive to this request.

4. The Auditor of Public Accounts already has access to this information through the state eMARS system.
5. This request seeks information outside of the functions of the Auditor's office and seeks information related to the internal policy making process of the Cabinet, specifically, the Department of Community Based Services.

In response to your entirely new requests the Cabinet states as follows:

1. The DCBS organization chart is available online – <https://extranet.personnel.ky.gov/DHRAOrgCharts/OC-53736.pdf>.
2. This request is overly broad and unduly burdensome. This request calls for: "A list of every DCBS officer and employee, and his or her salary, status, title, organization unit, and job duties." This would require the Department for Community Based Services and its limited human resources staff to, instead of carrying out their daily duties, manually review each individual personal file of the thousands of employees to find the information requested. The Department currently has nearly 5,000 full-time employees. This request also does not identify any date range, meaning Department employees would have to determine what employees have left the Department's employment in the unspecified time period and what employees started working for the Department in the unspecified time period.
3. This information is available online through the Finance and Administration Cabinet transparency website – <https://transparency.ky.gov/search/Pages/contractsearch.aspx#/welcome>.
4. There are no documents or additional information responsive to this request.

In addition, the Cabinet reiterates its objection to the assertion that the Auditor's office has authority to charge the Cabinet the costs of its "preliminary assessment" or "limited scope special examination." As previously stated in my November 12, 2024 letter to you, although the Auditor's office may charge for its services provided in the normal course of its statutory authority, the "preliminary assessment" to determine the validity of "concerns" regarding legislation that cannot legally be implemented falls outside the scope of the authority of the Auditor's office under KRS Chapter 43, and any costs charged to the Cabinet would therefore and therefore any charges would be improper.

Sincerely,

/s/ Wesley W. Duke
Wesley W. Duke
General Counsel
Cabinet for Health and Family Services

Exhibit 8

SENATE BILL 151

Interim Joint Committee on Families & Children

July 30, 2024

Presented by

Norma Hatfield

Shannon Moody, PhD





Kinship Care in Kentucky

Informal Kinship Care/Family-Planned Care

Family arrangement to care for children without DBCS involvement, may or may not involve a court order for custody.

Kinship Care (aka “Kinship Diversion”)

Children are placed with relatives or close family friends (fictive kin) as a result of an investigation to prevent entry into the foster care system. Kin may or may not have temporary legal custody which may result in reunification or permanent legal custody to the kin caregiver.

Relative or Fictive Kin Foster Home

Children are placed with a relative or fictive kin who have been approved as foster parents for the related child. Legal custody is with DCBS until the child leaves foster care.





Senate Bill 151

Section 1

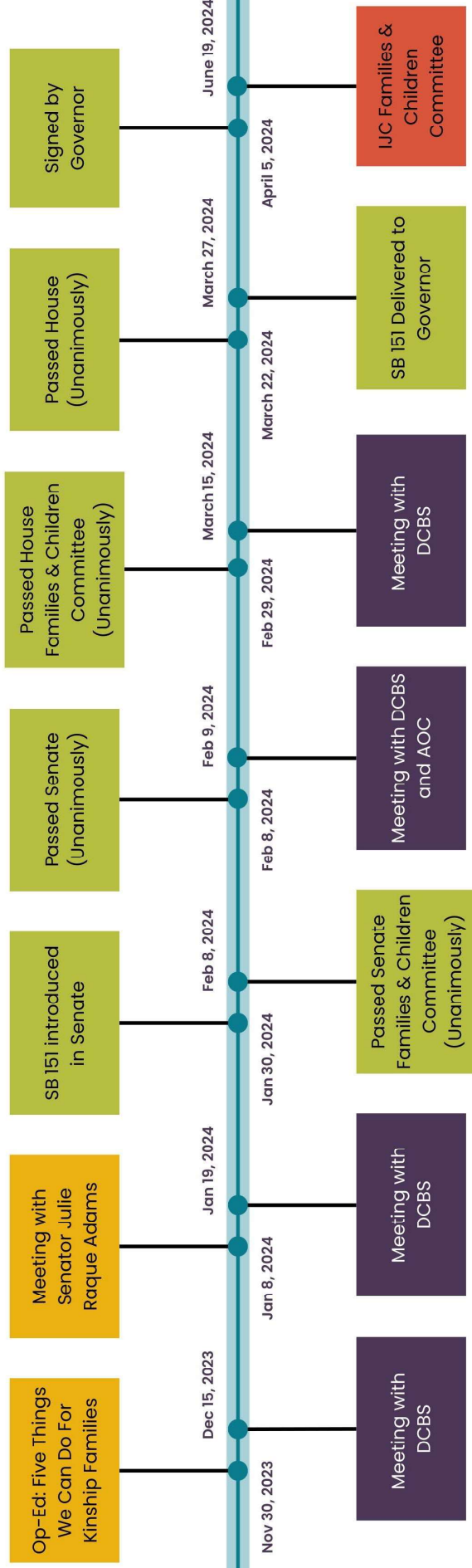
- **Give the child a voice** by allowing a child to provide names of individuals they'd like to be placed with (relative or fictive kin).

Section 2

- **Within one hundred twenty (120) days of a placement** made by the cabinet due to a cabinet finding that a child is abused, neglected, dependent, or a status offender, **or upon a qualifying event as established in administrative regulation**, a relative or fictive kin caregiver may apply to become a relative or fictive kin foster parent for the child in his or her care.
- The cabinet shall, if necessary, seek any state or federal waivers to implement the provisions of subsection (3) of this section.



SB 151 Advocacy Timeline





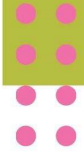
Kinship Placement Options

Temporary Custody

- Limited financial resources (including KTAP, if eligible and time limited)
- Limited reunification services to parents and services for children
- May or may not have legal custody or authority, therefore may or may not result in permanency for the child

Kinship Foster Care

- Foster care maintenance payments to care for child resulting in equitable support for children, especially Black, Indigenous, and/or in living underserved rural areas
- Greater service array for children and parents, including reunification services
- More supported permanency options available



Importance of SB 151: A Game Changer

Kinship Foster Care

- Foster care maintenance payments to care for child resulting in equitable support for children, especially Black, Indigenous, and/or in living underserved rural areas
- Greater service array for children and parents, including reunification services
- More supported permanency options available

Subsidized Permanent Custody (SPC) or Relative Adoption

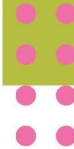
- Continued long term support until child 18 or in some cases life
- Allows child to exit system to permanency with parent or kin
- Subsidized permanency requires kin to be an approved kinship foster parent to qualify, cannot take full advantage of SPC without licensing of kin



The WHY of SB 151

A Caregiver's Perspective





Current Form:

Permanent Decisions Under Duress



Kentucky Department for Community Based Services

Acknowledgement Statement: Options and Available Services for Relative And Fictive Kin Caregivers

Signatures below indicate that (1) Department for Community Based Services (DCBS) staff has informed relative or fictive kin caregiver(s) about available options and services, (2) relative or fictive kin caregiver(s) have had the opportunity to ask and have their questions answered, (3) DCBS staff has given the relative or fictive kin caregiver(s) a copy of the relative and fictive kin caregiver brochure prior to placing a child in the home of a caregiver, and (4) DCBS has provided the relative and fictive kin caregiver(s) the link to the video further breaking down service array options.

In addition, signatures below indicate that the relative or fictive kin caregiver(s) has been informed of the right to seek legal counsel, prior to deciding, in order to determine which option best meets needs of the family.

Furthermore, DCBS staff are to inform the relative or fictive kin caregiver(s) that if it is determined the placement is a risk to the child's safety or well-being, or not in the child's best interest, that the child may be removed from the caregiver's home. It should be explained that unless it is an emergency situation, DCBS must give the relative or fictive kin caregiver(s) ten days written notice, and the relative or fictive kin caregiver(s) may have a right to an appeal. However, it should be explained that the courts are not required to give such notice of decision to remove a child.

My signature below indicates that my options and available services were explained to me, I had the opportunity to ask questions, and I watched the video provided to me by DCBS, breaking down service array options, prior to the child being placed in my home, <https://prd.webapps.chfs.ky.gov/kyfaces/Home/Videos?tab=kinship>. Additionally, the caregiver(s) should check the legal options which they are choosing to pursue. The caregiver(s) understands that if temporary custody is granted to the caregiver(s), that the option to pursue approval as a foster parent is no longer available.

☐ Caregiver(s) had a custody arrangement prior to DCBS involvement.

☐ Caregiver(s) chooses to seek temporary custody of _____
(Child's Name(s))

☐ Caregiver(s) chooses to seek approval as a DCBS foster parent for _____
(Child's Name(s))

Source: CHFS Standards of Practice Manual



A Caregiver's Perspective

SB 151 – Doing What's Best for Children





Recommendations: Implementation of SB 151

1. Immediately implement 120 days of child placement flexibility/consideration and preserve federal funding for placement

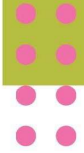
- Under federal law, child may live with kin in temporary custody for up to 6 months before losing federal funding for that placement
- Emphasis and monitoring on increasing placement statistics while recognizing not all kin will want to be licensed

2. Change and enhance communication – informed decision making for kin caregivers

3. Educate DCBS staff, Administrative Office of the Courts, caregivers and the public on policies, impact and resources

4. Continue exploring in a working group the conditions of “qualifying events” and funding options

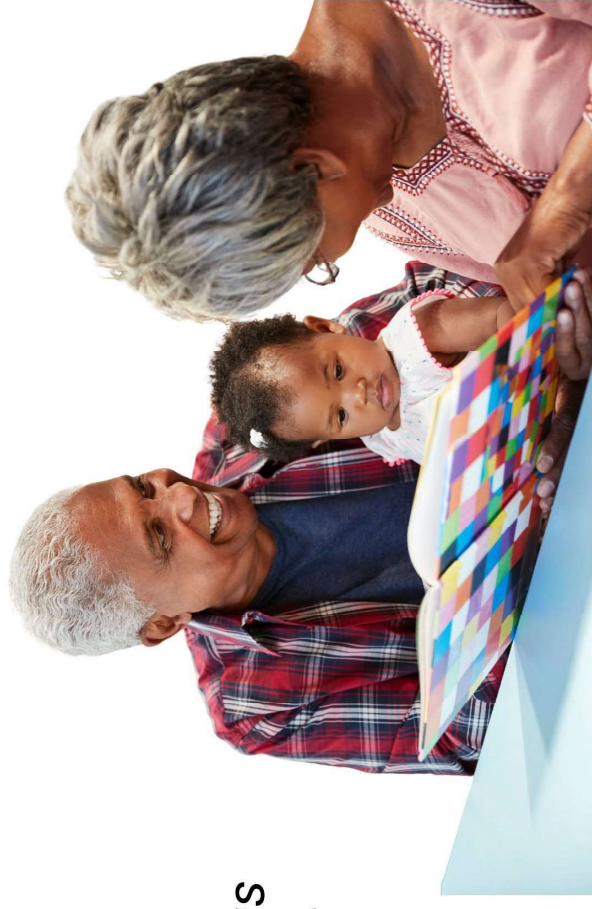
5. Research and utilize all funding sources – Temporary Assistance for Needy Families (TANF), Opioid Settlement Dollars, etc.



Senate Bill 151

Provides options, resources, and time around a pivotal life-changing milestone for traumatized children and kinship caregivers

Thank you to the Governor and the Kentucky legislature for their unanimous approval of this bill for kinship families



QUESTIONS?

Interim Joint Committee on Families & Children

July 30, 2024

Presented by

Norma Hatfield

Shannon Moody, PhD



Exhibit 9



CABINET FOR HEALTH
AND FAMILY SERVICES

Relative/Fictive Service Array Training

Kristin Breeden, OOHCB Branch Manager

Benefits of Kinship Care

When placed with kin, children experience more stability, less trauma, and stronger connections to family, community, and culture.

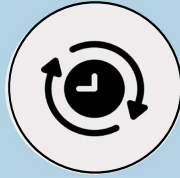
**Placement with kin
is associated with:**



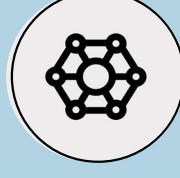
**Reduced trauma and improved
child well-being**



**Better behavioral and
mental health outcomes**



**Higher placement stability and
improved permanency**



**Preservation of family,
culture, and community**

Safety Check and Review

Cabinet practice has not changed when it comes to ensuring safety of relative and fictive homes. ***The DPP-1277 SAFETY CHECK AND REVIEW IS*** completed to thoroughly assess the relative or fictive kin's ability to provide for the child's safety and ongoing well-being.

Relative/Fictive Service Array

- If DCBS becomes involved with the family and the child is not able to remain in the home with the parents, a relative or fictive kin may be able to choose between two options.
- With the Service Array, our relative/fictive kin placements have access to the same supports as a foster parent which enhances placement stability through both financial and social supports.

Relative Service Array Two Options

- Option 1: Receive temporary legal custody of the child.
- Option 2: Place the child in DCBS custody until the relative or fictive kin caregiver can pursue approval as a foster parent.

The decision regarding temporary custody versus foster parent approval should be made prior to the initial court date, if all possible.
(This could change depending legislative requirements)

Service Array Comparison

Relative Fictive Kin Foster Parent	Temporary Custody
<ul style="list-style-type: none">• \$810.00 per month (1)• \$1,620.00 per month (2)• \$2,340.00 per month (3)• Medical• Childcare• KY KINS• All other additional foster care benefits/supports	<ul style="list-style-type: none">• KTAP \$372.00 per month (1)• KTAP \$450.00 per month (2)• KTAP \$524.00 per month (3)• Medical• Childcare• KY KINS• SNAP (Income Requirements)

DPP 178: Acknowledgement Statement

DPP-178
TWIST #:

(R. 08/21)



Kentucky Department for Community Based Services

Acknowledgement Statement: Options and Available Services for Relative And Fictive Kin Caregivers

Signatures below indicate that (1) Department for Community Based Services (DCBS) staff has informed relative or fictive kin caregiver(s) about available options and services, (2) relative or fictive kin caregiver(s) have had the opportunity to ask and have their questions answered, (3) DCBS staff has given the relative or fictive kin caregiver(s) a copy of the relative and fictive kin caregiver brochure prior to placing a child in the home of a caregiver, and (4) DCBS has provided the relative and fictive kin caregiver(s) the link to the video further breaking down service array options.

In addition, signatures below indicate that the relative or fictive kin caregiver(s) has been informed of the right to seek legal counsel, prior to deciding, in order to determine which option best meets needs of the family.

Furthermore, DCBS staff are to inform the relative or fictive kin caregiver(s) that if it is determined the placement is a risk to the child's safety or well-being, or not in the child's best interest, that the child may be removed from the caregiver's home. It should be explained that unless it is an emergency situation, DCBS must give the relative or fictive kin caregiver(s) ten days written notice, and the relative or fictive kin caregiver(s) may have a right to an appeal. However, it should be explained that the courts are not required to give such notice of decision to remove a child.

My signature below indicates that my options and available services were explained to me, I had the opportunity to ask questions, and I watched the video provided to me by DCBS, breaking down service array options, prior to the child being placed in my home, <https://prd.webapps.chfs.ky.gov/kyfaces/Home/Videos?tab=kinship>. Additionally, the caregiver(s) should check the legal options which they are choosing to pursue. The caregiver(s) understands that if temporary custody is granted to the caregiver(s), that the option to pursue approval as a foster parent is no longer available.

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☐ Caregiver(s) chooses to seek temporary custody
of _____
(Child's Name(s))

☐ Caregiver(s) chooses to seek approval as a DCBS foster parent
for _____
(Child's Name(s))

Becoming a Relative Fictive Kin Foster Parent

- A relative fictive kin caregiver can be approved as a relative fictive kin foster home. Their standards are separate compared to a traditional (non-familial) foster parents.
- The relative and fictive kin caregiver will be assigned a Recruitment and Certification worker to approve their home as a relative /fictive kin foster home.
- The child will remain placed in their home during the approval process, and the family will receive \$12.00 per day per diem. This equals \$372.00 a month.
- Upon approval of the foster home the per diem will go up to \$27.00 a day, \$810.00 a month.
- Relative and Fictive Kin caregivers are eligible for Relative Placement Support Benefits at time of placement (they must either have temporary custody or child be in Cabinet custody placed with them). If a caregiver receives the Relative/Fictive Kin Support Benefit they are NOT eligible for a clothing voucher upon foster parent approval.

Relative / Fictive support benefits

- The relative placement support benefit (RPSB) and fictive kin relative placement support benefits (FKRPSB) are provided one (1) time per placement to facilitate the placement of a child with a non-parental relative or fictive kin if it's determined that a child can no longer remain safely in their home or is in the custody of the Cabinet and residing in foster care due to abuse or neglect.

Number of Eligible Children	Maximum Payment Amount
1	\$350
2	\$700
3	\$1,050
4	\$1,400
5	\$1,750
6 or more	\$2,100

DPP 1278 RFKPSB Acknowledgment Form

DPP-1278
Rev. (1/2022)

RELATIVE PLACEMENT AND FICTIVE KIN SUPPORT BENEFIT ACKNOWLEDGMENT FORM Cabinet for Health and Family Services Department for Community Based Services

Child's Name: _____ DOB: _____

(Name of Relative Caregiver)

(Street and No.) (City) (County) (State) (Zip Code)

1. The prospective and approved relative caregiver agrees to:
 - a) Provide for the child's safety and well-being, including facilitation of education and physical health care services and, when appropriate, mental health care;
 - b) Participate in a relative home evaluation, a criminal record check, and child and adult abuse or neglect check for the adult and adolescent members of the household, for potential approval as a relative caregiver by the Cabinet for Health and Family Services;
 - c) Participate in planning meetings that may involve birth parents(s);
 - d) Accept temporary custody of the child, if required;
2. The Cabinet for Health and Family Services shall:
 - a) Provide specified information about the relative placement support benefit to the prospective relative caregiver;
 - b) Offer case management services to support the relative caregiver;
 - c) Provide funding as specified in KAR 1:400 if the relative is deemed eligible and an assessed need for the child(ren) exists;
 - d) Complete a relative home evaluation, background checks on the adult and adolescent members of a prospective relative caregiver's household, and approve an applicant if appropriate;
 - e) Recommend to the court that temporary custody be granted to the approved relative caregiver;
 - f) Prepare a court report addressing permanency for the child, and request redocketing of the case to determine permanent custody by the court, per KRS 620.027 if appropriate.

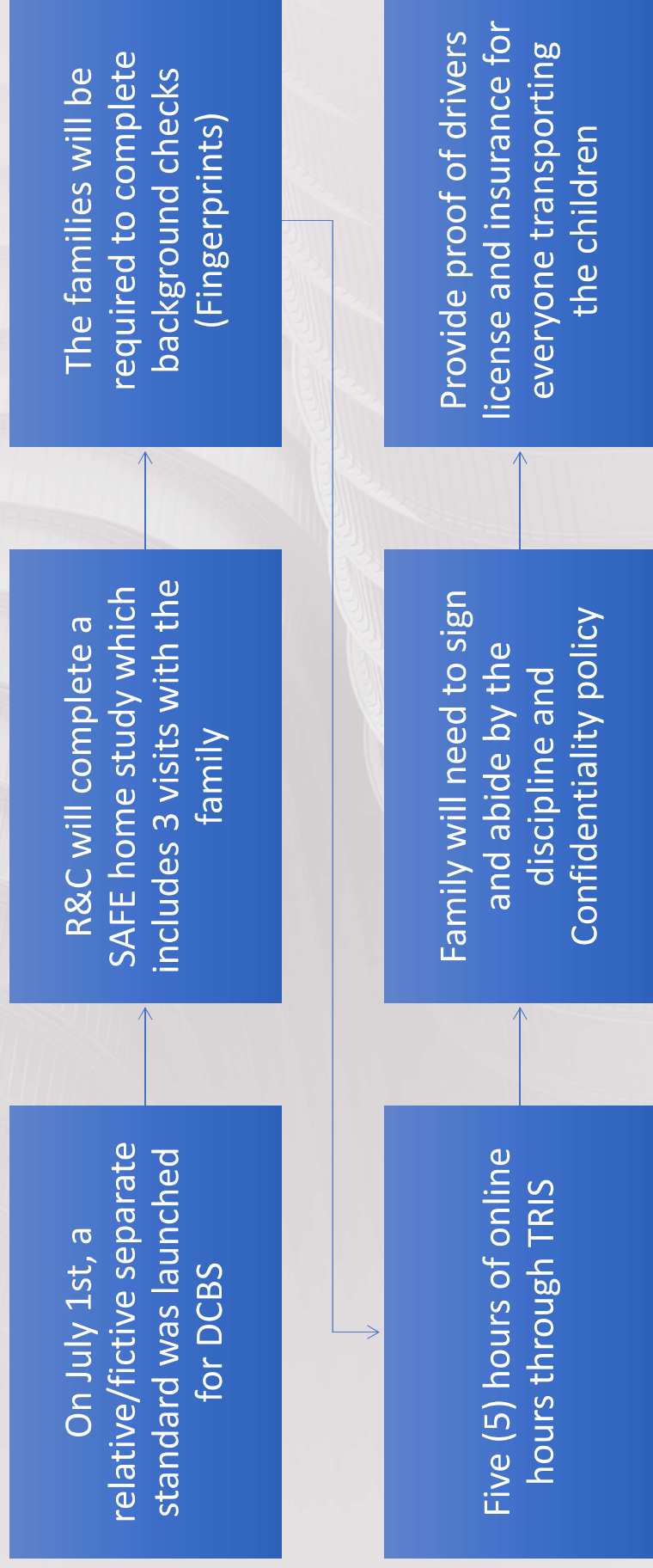
Hearing Rights

If you are dissatisfied with the action taken by the Cabinet for Health and Family Services relating to relative placement support benefit costs or supportive services, you may request a hearing in accordance with 922 KAR 1:220 by completing and submitting form, DPP 154 Protection and Permanency Service Appeal.

Relative Service Array Forms

- DPP-178 Acknowledgement Statement Options
- DPP-179 Relative Fictive Kin Caregiver Agreement
- Relative Fictive Kin Placement Support Benefit (RFKPSB)
- DPP-1278 RFKPSB Acknowledgment Form
- Service Array Financial Breakdown

Relative / Fictive Foster Care Separate Standards





Thank you!

QUESTIONS

Exhibit 10



Kentucky Department for Community Based Services

Acknowledgement Statement: Options and Available Services for Relative And Fictive Kin Caregivers

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☐ Caregiver(s) chooses to seek temporary custody
of _____
(Child's Name(s))

☐ Caregiver(s) chooses to seek approval as a DCBS foster parent
for _____
(Child's Name(s))

Signature of Relative/Fictive Kin Caregiver(s)

Date

Printed Name of Relative/Fictive Kin Caregiver(s)

Date

Street and No.	City	County	State	Zip Code
----------------	------	--------	-------	----------

FOR USE BY DCBS STAFF:

- My signature below indicates that I have explained the permanency options and support services available to the relative and fictive kin caregiver(s), and I have provided the link to the service array video to the relative of fictive kin caregiver(s). I take responsibility for ensuring that all options are clearly explained and understood by the relative or fictive kin caregiver(s).
- If there are additional questions that I cannot answer, I will provide that information to the relative or fictive kin caregiver(s) as soon as possible.
- I have reviewed and discussed the relative and fictive kin caregiver brochure with the relative or fictive kin caregiver(s).
- DCBS will provide ongoing discussion regarding permanency options and support services at all subsequent family team meetings (FTMs), home visits, court hearings, Foster Care Review Board meetings, and family visitations.

Signature of DCBS Staff

Date

DCBS Staff Contact Telephone Number

Exhibit 11



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

Andy Beshear
GOVERNOR

Capitol Building, Suite 100
700 Capitol Avenue
Frankfort, KY 40601
(502) 564-2611
Fax: (502) 564-2517

March 27, 2025

Dear Members of the House of Representatives and Senate:

I have acted on the bills attached, even though no appropriations were provided. Some of these bills represent good public policy and programs, but lack the resources needed to implement them. The estimated costs of these policies and programs were known and communicated, and there is still time in this legislative session to add appropriations in the last two legislative days to rectify the omissions.

In *Fletcher v. Commonwealth*, 163 S.W.2d 852 (2005), the Kentucky Supreme Court established the limitations on implementing statutory policies and programs when the legislature does not appropriate funds. In *Fletcher*, the Court held that "in the absence of a specific appropriation, or a statutory, constitutional, or federal mandate, ... the unambiguous language of Section 230 [of the Kentucky Constitution] prohibits the withdrawal of funds from the State Treasury." The Court continued by stating, " ... the mere existence of a statute that can be implemented only if funded does not mandate an appropriation. '[T]he General Assembly is permitted through the reduction or elimination of an appropriation, to effectively eliminate the efficacy of existing statutes" (quoting *Commonwealth ex rel. Armstrong v. Collins*, 709 S.W.2d 437 (Ky. 1986)).

More recently, the United States District Court for the Western District of Kentucky wrote that "Under Kentucky law, a bill that requires funding to execute but does not contain a funding provision cannot be executed." *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, and Kentucky, Inc. v. Cameron*, 603 F.Supp.3d 501, 523-24 (W.D. Ky. 2022) (citing *Fletcher*), vacated and remanded on other grounds by *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, and Kentucky v. Cameron*, 2023 WL 362977 (6th Cir. May 24, 2023).

These holdings are simple: if the legislature creates a policy or program but does not provide funding, it does not intend for the executive branch to perform those services over the biennium.

The omission of an appropriation is the same as its elimination. The budget for each agency is put together in great detail combining the costs of current service requirements plus identified additions for certain purposes. If a bill includes new

expenditure requirements, it is expected that an appropriation will be provided for its implementation. The benefit of the General Assembly's documentation of what is in the budget makes plain whether the new requirements were taken into account. These bills are lacking the appropriations necessary to implement these legislative acts.

Sincerely,

A handwritten signature in blue ink that reads "Andy Beshear". The signature is fluid and cursive, with the first name "Andy" and last name "Beshear" clearly distinguishable.

Andy Beshear
Governor

Fiscal Notes for Bills that have Passed the 2025 Regular Session of the General Assembly with No Appropriation

HB 346 – AN ACT relating to air quality programs and declaring an emergency.

House Bill 346 is estimated to reduce fiscal year 2025 fee revenues by \$1,076,700, Title V air emission assessment on certain pieces of equipment, for calendar year 2023. These revenues were included in the Division of Air Quality enacted budget and relied upon to carry out its requirements.

HB 390 – AN ACT relating to motor vehicle insurance.

House Bill 390 is estimated to cost between \$600,000 and \$1.1 million for initial costs to program the KAVIS system and \$750,000 in operating costs in the second and subsequent years to establish and administer an accessible online insurance verification system.

HB 398 – AN ACT relating to occupational safety and health.

House Bill 398 would allow the Franklin Circuit Court to award expenses incurred such as court costs and attorney's fees against the Department of Workplace Standards resulting in a potential cost increase. Since award amounts would be based on future court cases the amount of the cost increase is currently undeterminable.

HB 495 – AN ACT relating to healthcare services and declaring an emergency.

House Bill 495 is estimated to cost the Medicaid program \$6.3-\$9.8 million (\$540,000-\$1.95 million state funds) for increased behavioral and mental health services for 5,000-10,000 persons. Other states with similar laws have experienced an increase in suicide attempts, some by as much as 72%. The increase in services expected include an additional six hours of behavioral health counseling and therapy, an increase in pharmacy costs, and increased psychiatric hospitalization.

HB 695 – AN ACT relating to the Medicaid program and declaring an emergency.

House Bill 695 is estimated to cost \$2.8 million (\$1.4 million state funds) for a new procurement of Medicaid managed care organization contracts by January 1, 2027, an 18-month process requiring a full request for proposals in the summer of 2025. The costs include the services of a contractor to assist with developing the request for proposal. The bill is also estimated to cost \$1 million (\$500,000 state funds) to conduct a managed care long-term services study.

HB 775 – AN ACT relating to development areas.

House Bill 775 is estimated to cost \$490,000 for four additional staff and operating costs for the administration of the expanded Pilot Tax Increment Financing program.

SB 4 – AN ACT relating to protection of information and declaring an emergency.

Senate Bill 4 is estimated to cost at least \$2.5 million, \$2 million for an application portfolio management system and \$500,000 for staff in the Commonwealth Office of Technology, to operate a centralized registry of artificial intelligence (AI) systems in Kentucky state government and to implement an AI governance process ensuring adherence to regulatory standards, security, privacy, risk mitigation, and ethical practices. Unknowns include the cost of standing up a security architecture specifically for the defense of AI systems.

SB 27 – AN ACT relating to Parkinson's disease.

Senate Bill 27 is estimated to require an initial one-time cost of \$635,000 to \$1 million and \$100,000 in annual ongoing costs in state funding to set up a Parkinson's Disease Registry. This estimate comes from looking at six other states, including Utah, Nebraska, and South Carolina, that have already established or are working to establish similar registries.

SB 43 – AN ACT relating to operator's licenses.

Senate Bill 43 is estimated to cost less than \$100,000. The bill removes the \$200 per day cap on review board member compensation, which will increase the cost of hearings.

SB 63 – AN ACT relating to street-legal special purpose vehicles.

Senate Bill 63 is estimated to cost \$492,000. This includes three additional Motor Vehicle Licensing staff to cover the additional workload: \$317,000, \$100,000 for changes to the KAVIS system changes, and \$75,000 for additional enforcement efforts by the Motor Vehicle Commission regarding dealers that would be under the jurisdiction of the Commission.

SB 89 – AN ACT relating to environmental protection and declaring an emergency.

Senate Bill 89 is estimated to cost \$2,625,000 including an annual cost increase of \$1.8 million for additional staff and operating expenses, and \$225,000 for vehicles, and a decrease of \$600,000 in program revenue. The bill requires some permit renewals to include a site visit and investigation that is not required under current law. The site visit and investigation are necessary to determine if a waterway meets the new definition of navigable waterways. That could involve 8,000 currently permitted sites over a number of years. The \$600,000 reduction in program revenue is due to the overall reduction in permitted sites.

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION __
CASE NO. _____
Electronically filed

ALLISON BALL, in her official capacity as
the Kentucky Auditor of Public Accounts
Plaintiff

v.

ANDREW GRAHAM BESHEAR, in his official capacity as
Governor of the Commonwealth of Kentucky, *et al.*
Defendants

NOTICE OF ELECTION OF ELECTRONIC SERVICE

Auditor Allison Joy Ball, in her official capacity as Kentucky Auditor of Public Accounts, hereby gives notice pursuant to CR 5.02(2) that her undersigned counsel elect to effectuate and receive electronic service of documents via email. All papers, filings, discovery, and other documents required to be served shall be served on the undersigned by email at the following email addresses:

- Alexander Magera, alexander.magera@ky.gov
- Jeremy Sylvester, jeremy.sylvester@ky.gov
- Savannah Baker, savannah.baker@ky.gov

Pursuant to CR 5.02(2), all counsel in this action are requested and required to provide their email addresses promptly to the undersigned counsel for service of all future papers, filings, discovery, and other documents required

to be served. Please take notice that unless otherwise notified, the undersigned counsel will effectuate service of documents via electronic means upon the email addresses listed in the Certificate of Service.

Respectfully submitted,

/s/ Alexander Y. Magera
Alexander Y. Magera (No. 97708)
Jeremy Sylvester (No. 92771)
Savannah Baker (No. 99492)
Office of the Auditor of Public Accounts
209 St. Clair Street
Frankfort, Kentucky 40601
Phone: (502) 564-5841
Alexander.Magera@ky.gov
Jeremy.Sylvester@ky.gov
Savannah.Baker@ky.gov

Counsel for Auditor Ball

PROOF OF SERVICE

I certify that on May 15, 2025, I filed a copy of the foregoing with the Court's electronic filing system, which caused a copy to be served on all counsel of record. I also certify that I mailed and emailed the foregoing to the addresses listed below, in addition to effectuating service through the Attorney General's Office pursuant to CR 4.04(6):

S. Travis Mayo
Office of the Governor
700 Capital Avenue, Suite 100
Frankfort, Kentucky 40601
travis.mayo@ky.gov

Counsel for Governor Beshear

Wesley Duke
Office of the Secretary
275 E. Main St. 5W-A
Frankfort, Kentucky 40621
wesleyw.duke@ky.gov

Counsel for the Cabinet for Health and Family Services

/s/ Alexander Y. Magera
Counsel for Auditor Ball