

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION \_\_  
Case No. \_\_\_\_\_

*Electronically filed*

THE COMMONWEALTH OF KENTUCKY,  
*ex rel.* Attorney General Daniel Cameron

Plaintiff

v.

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

Defendant

SERVE: Office of the Attorney General  
The Capitol Building  
700 Capitol Avenue, Suite 118  
Frankfort, Kentucky 40601-3449  
[servethecommonwealth@ky.gov](mailto:servethecommonwealth@ky.gov)

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**COMPLAINT**

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Undoubtedly, making laws is the prerogative of the General Assembly. *Beshear v. Acree*, 615 S.W.3d 780, 809 (Ky. 2020). And when a law duly passed by the General Assembly places obligations on an executive agency, the agency does not have discretion to decline to act accordingly. Indeed, “[n]o power to suspend laws shall be exercised unless by the General Assembly or its authority.” Ky. Const. § 15. To allow otherwise would be antithetical to the executive duty under Section 81 of the Kentucky Constitution to faithfully execute the law. *Fletcher v. Commonwealth*, 163

S.W.3d 852, 872 (Ky. 2005). Therefore, the Commonwealth of Kentucky, ex rel. Attorney General Daniel Cameron, brings this Complaint against Secretary Eric Friedlander in his official capacity for failing to faithfully execute the law and to compel him to do so. In support of the Complaint, the Commonwealth states the following:

### INTRODUCTION

1. This Complaint seeks a declaratory judgment that Defendant Eric Friedlander must act to fulfill his obligations as Secretary of the Cabinet for Health and Family Services under House Bill 3 (“HB 3” or “the Act”) and a writ of mandamus directing Defendant Eric Friedlander to immediately act accordingly.

2. HB 3, passed during the 2022 legislative session, enacts a number of much-needed reforms to the laws regulating abortion within the Commonwealth. The Kentucky General Assembly passed the Act on March 30, 2022. Governor Beshear vetoed it nine days later, but on April 13, 2022, the General Assembly overrode the veto. Due to an emergency clause in the Act, the provisions of HB 3 became effective immediately. 2022 HB 3 § 39.

3. The Act requires the Cabinet for Health and Family Services (“the Cabinet”) to take numerous steps to implement its provisions. For instance, the Cabinet is charged with creating and distributing various report forms. *Id.* § 13(1). And the Cabinet must create and distribute those forms within sixty days of HB 3’s April 13, 2022, effective date. *Id.* Other provisions directing the Cabinet to promulgate administrative regulations to create a certification program to oversee

and regulate the distribution and dispensing of abortion-inducing drugs, *id.* § 15, and to institute requirements for registered physicians, *inter alia*, *id.* § 17, were effective immediately.

4. Abortion providers challenged the Act in federal court and requested injunctive relief preventing its enforcement. The federal district court first granted a temporary restraining order against the Act in its entirety, then granted a more limited temporary restraining order, and finally granted a similarly limited preliminary injunction. In each grant of injunctive relief, the federal district court explicitly clarified that it was not enjoining the Cabinet from acting to fulfill its statutory responsibilities. *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, and Kentucky, Inc. v. Cameron*, No. 3:22-cv-00198, 2022 WL 1183560, at \*1 (W.D. Ky. April 21, 2022) (“This Order does not prevent the Cabinet from promulgating requisite regulations or creating any of the programs and forms required under HB 3.”); *Planned Parenthood*, No. 3:22-cv-00198, 2022 WL 1414485, at \*1 (W.D. Ky. May 4, 2022) (same); *Planned Parenthood*, No. 3:22-cv-00198, 2022 WL 1597163, at \*1 (W.D. Ky. May 19, 2022) (“This Order does not prevent the Cabinet from taking any steps it considers appropriate to comply with the Kentucky Legislature’s mandates.”). And in another order, the court reiterated that its prior orders did not “relieve [the Cabinet] of any obligations under Kentucky law” and clarified that it “did not resolve any issues of state budgeting law.” *Planned Parenthood*, 2022 WL 1698085, at \*12 (W.D. Ky. May 26, 2022).

## PARTIES

5. Daniel Cameron is the duly elected Attorney General of the Commonwealth of Kentucky. As such, he is the lawyer for the people of Kentucky and may “commence all actions” in which the Commonwealth has an interest. KRS 15.020(1), (3). That includes actions against state officials. *Commonwealth ex rel. Beshear v. Commonwealth ex rel. Bevin*, 498 S.W.3d 355, 366 (Ky. 2016).

6. Attorney General Cameron brings this suit on behalf of the Commonwealth of Kentucky. As the chief law officer of the Commonwealth, Attorney General Cameron has authority to bring actions to enforce compliance with the laws of the Commonwealth. *See, e.g., Commonwealth ex rel. Hancock v. Paxton*, 516 S.W.2d 865, 867–68 (Ky. 1974); *Commonwealth ex rel. Conway v. Thompson*, 300 S.W.3d 152, 173 (Ky. 2009). HB 3 also expressly gives him statutory authority to enforce compliance with the provisions of the Act. 2022 HB 3 § 31.

7. Defendant Eric Friedlander is the Secretary of the Cabinet for Health and Family Services (“the Cabinet”), which is an agency of the Commonwealth of Kentucky located in Franklin County. “The cabinet is the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services.” KRS 194A.010(2). It must, among other things, “deliver social services to promote the safety and security of Kentuckians and preserve their dignity,” *id.*, and “administer all provisions of law relating to public health,” KRS 211.025. In his capacity as Secretary, Defendant Friedlander is charged with, among other things, adopting rules and regulations

necessary to effectuate the purposes of any law relating to public health. KRS 211.090(3). Defendant Friedlander is sued in his official capacity.

### JURISDICTION AND VENUE

8. Circuit courts “have original jurisdiction of all justiciable causes not vested in some other court.” Ky. Const. § 112. Writs of mandamus are to be brought in circuit courts unless the writ is brought to compel action by a judge. *See Francis v. Taylor*, 593 S.W.2d 514 (Ky. 1980); CR 81.

9. This Court has personal jurisdiction over Secretary Friedlander because he holds office in Franklin County, Kentucky, where the Cabinet has its principal office.

10. Under KRS 452.405, Franklin Circuit Court is the appropriate venue because this action is against Secretary Friedlander for neglecting his official duty.

### FACTUAL ALLEGATIONS

11. The Cabinet is responsible for exercising all administrative functions of the Commonwealth regarding public health. KRS 211.025; KRS 211.090.

12. The executive branch has a duty to faithfully execute the laws of the Commonwealth, including HB 3. *See* Ky. Const. § 81.

13. HB 3 is an Act relating to public health and its purpose is several-fold, including, inter alia, to “[p]rotect the health and welfare of every woman considering a drug-induced abortion;” “[e]nsure that a physician examines a woman prior to dispensing an abortion-inducing drug;” and “[p]romote the health and safety of women, by adding to the sum of medical and public health knowledge through the

compilation of relevant data on drug-induced abortions performed in the state, as well as on all medical complications and maternal deaths resulting from these abortions[.]” 2022 HB 3 Preamble.

14. Under HB 3, the Cabinet is directed to “create and distribute the report forms required in Sections 1, 4, 8, 9, 25, 26, 27, and 29.” 2022 HB 3 § 13(1). The Cabinet must also inform all abortion facilities, licensed physicians, and other medical entities of the reporting requirements under the law. *Id.* § 13(6).

15. HB 3 specifies that the forms referred to in Section 13 must be created and distributed within sixty days of the effective date of the Act. The effective date of HB 3 is April 13, 2022. Sixty days from April 13 (taking into account that the technical last day falls on a Sunday) is June 13, 2022. *See* KRS 446.030(1)(a).

16. The Act requires the Cabinet to create the new Kentucky Abortion-Inducing Drug Certification Program. *Id.* §§ 15–19. Section 15 requires the Cabinet to promulgate regulations “to create a certification program to oversee and regulate the distribution and dispensing of abortion-inducing drugs.” *Id.* § 15(1). That includes establishing certification requirements for manufacturers and distributors of abortion-inducing drugs, pharmacies that dispense the drugs, and abortion facilities. *Id.* Sections 16 and 17 of HB 3 specify several additional requirements on the Cabinet related to the regulations required by Section 15, including what the Cabinet must require for certification and what the Cabinet must require of qualified physicians to be eligible to register as nonsurgical abortion providers.

17. Relatedly, the Cabinet must develop a plan to enforce the program, *id.* § 18(1), and establish a complaint portal on its website for individuals to submit information about potential violations of the program, *id.* § 19.

18. Under HB 3, the Cabinet must design forms through administrative regulations to document certain information related to fetal remains, and promulgate administrative regulations to aid in private interment of fetal remains. *Id.* § 22.

19. The promulgation of these administrative regulations by the Cabinet is not discretionary. Although the Act does not set an explicit deadline for the promulgation of these administrative regulations, the Cabinet must comply within a reasonable time. *See, e.g., Holliday v. Cornett*, 6 S.W.2d 497, 498 (Ky. 1928) (holding that a statute that did not provide a time limit “necessarily contemplates a reasonable length of time”).

20. The Cabinet is also required under HB 3 to publish in printed material and on its website the statement specified in Section 12(1) and include information “for assistance in locating a medical professional who can aid in the reversal of a drug-induced abortion.” *Id.* § 12(1)–(2). As with the regulations, this mandate is not discretionary and the Cabinet must comply within a reasonable time.

21. Upon information and belief, the Cabinet has not yet created and distributed the forms necessary for compliance with the sections listed in Section 13. A search of the Cabinet’s website did not reveal any new forms as of June 14 at 10:00 am.

22. Upon information and belief, the Cabinet has not yet promulgated administrative regulations to implement the Kentucky Abortion-Inducing Drug Certification Program, nor has it promulgated regulations to address the fetal-remains provisions of HB 3.

23. Upon information and belief, the Cabinet has not yet published in print material or on its website the information required by Section 12.

24. Upon information and belief, the Cabinet is refusing to comply with the provisions of HB 3 until the General Assembly provides specific funding for the duties imposed therein. In a status report filed May 5, 2022, with the federal district court, the Cabinet said that in the absence of an appropriation, the requirements of HB 3 “may not be implemented.” (Exhibit 1). Governor Beshear made a similar claim in his veto message related to HB 3, which stated that “[a]n agency is under no obligation to carry out an unfunded mandate. In the absence of an appropriation, these unfunded mandates may not be implemented.” (Exhibit 2).

25. To ensure the Cabinet’s compliance with its form-related obligations under HB 3, the Office of the Attorney General sent a letter seeking confirmation that the Cabinet would comply by the 60-day deadline. (Exhibit 3).

26. In a June 3, 2022, response to the letter Mr. Wesley Duke, General Counsel for the Cabinet, stated the Cabinet would “work to fulfill its obligations under HB 3” (which it has yet to do). (Exhibit 4). At the same time, however, Mr. Duke erroneously suggested that the preliminary injunction in the federal case



somehow negated the Cabinet's duty to comply with its obligations under HB 3 until the General Assembly provides specific funding. (*Id.*).

27. The General Assembly passed an executive branch budget during the 2021 legislative session. 2021 Ky. Acts Ch. 169 ("HB 192").

28. Through HB 192, the General Assembly appropriated general funds to the Cabinet for "General Administration and Program Support" in the amount of \$10.35 million for the current fiscal year ending on June 30, 2022. 2021 Ky. Acts Ch. 169, Part 1, subpart G. (Exhibit 5). The Cabinet's total General Fund appropriation for the current fiscal year was \$2,788,557,200, from a total budget for the Cabinet of \$17,785,002,800. (*Id.*).

29. The General Assembly passed a subsequent executive branch budget during the 2022 legislative session. 2022 Ky. Acts Ch. 199 ("HB 1").

30. Through HB 1, the General Assembly appropriated additional general funds to finance the Cabinet's operations, including timely implementation of HB 3. 2022 Ky. Acts Ch. 199, Part 1, subpart G (Exhibit 6). HB 1 included an additional general fund appropriation for "General Administration and Program Support" in the amount of \$178,200 for the remainder of the fiscal year ending on July 1, and in excess of \$10.6 million for each of the next two fiscal years. (*Id.*). HB 1 included a total of \$16,993,400 in additional General Fund appropriations for the current fiscal year, and provides for a total budget of more than \$19 billion for the fiscal year beginning on July 1, 2022. (*Id.*).

31. In addition to General Fund appropriations for General Administration and Program Support, the Cabinet's budget includes General Fund appropriations for "Public Health," "Health Data and Analytics," and several other categories, which may be relevant to one or more of the Cabinet's obligations under HB 3.

32. The level of funding provided to the Cabinet in each budget was a policy decision left to the General Assembly, and the Cabinet is obliged to fulfill its duties under HB 3 with the funds appropriated to it. That Defendant Friedlander may believe the level of funding is inadequate is no excuse for him or the Cabinet to ignore the statutory obligations under HB 3. *See Fletcher*, 163 S.W.3d at 873 (reiterating the Governor's obligation to faithfully execute the law, even when funding may be scarce).

33. The current preliminary injunction granted by the federal district court on May 19, 2022, does not restrain the Cabinet from acting in any respect. It in no way runs to the Cabinet's benefit. At the outset of the injunction opinion, the district court explicitly noted that, "This Order does not prevent the Cabinet from taking any steps it considers appropriate to comply with the Kentucky Legislature's mandates." *Planned Parenthood*, 2022 WL 1597163 at \*1. Indeed, the district court exempted from the Preliminary Injunction provisions of HB 3 that impose duties on the Cabinet but not on abortion providers like Section 12, which requires *the Cabinet* to publish printed material and maintain on its website a specified statement about the potential of qualified medical professionals to reverse the effects of an abortion obtained through abortion-inducing drugs.

34. Likewise the district court did not enjoin Section 4(11), which imposes an annual audit requirement on the Cabinet with no corresponding duty for abortion providers. This clearly demonstrates that for the provisions of HB 3 that the district court chose to enjoin enforcement of, it did so not because the Cabinet could not yet act, but because it believed the abortion providers could not comply until action was taken by the Cabinet. The district court even expressly stated that it did not relieve the Cabinet of any duty under HB 3. The court made clear that it “did not resolve any issues of state budgeting law in its Preliminary Injunction. It did not direct the Cabinet to do anything or relieve it of any obligations under Kentucky law.” *Planned Parenthood*, 2022 WL 1698085, at \*12.

35. The Secretary has a ministerial duty to ensure that the Cabinet fully complies with the requirements of HB 3, including but not limited to, promulgating the administrative regulations necessary to implement the Kentucky Abortion-Inducing Drug Certification Program under HB 3, creating and distributing all forms necessary for the various reporting requirements in HB 3, and publishing in print and on its website the information required by HB 3. *See Studor, Inc. v. Commonwealth Office of Housing, Bldgs. & Const.*, 390 S.W.3d 145, 147–48 (Ky. App. 2012) (discussing when a duty is ministerial).

36. The Commonwealth ex rel. Attorney General Daniel Cameron may seek relief from this Court in this action by writ of mandamus to compel the Secretary to comply with his ministerial duties. CR 81; *Hamblen ex rel. Byars v. Kentucky Cabinet for Health and Family Servs.*, 322 S.W.3d 511 (Ky. App. 2010).

## COUNT I

## DECLARATORY RELIEF

37. The allegations in each of the foregoing paragraphs are incorporated as if fully set forth herein.

38. The Cabinet cites to *Fletcher* for support in not complying with HB 3 in the absence of a specific appropriation, but *Fletcher* only stands for the proposition that if the General Assembly fails to pass a budget, the Governor may not implement his own because Section 230 of the Kentucky Constitution places the taxing and spending power solely within the legislative branch. *Id.* at 864–65.

39. That situation does not apply here. And although the Court there noted that the “existence of a law does not mean that it must be implemented if doing so requires the expenditure of unappropriated funds,” *id.* at 869, this passage cannot be read to suggest that every law must have its own independent appropriation to fund its implementation. The General Assembly may—and regularly does—expect that agencies will use the general funds appropriated to comply with statutory obligations.

40. Any suggestion that the Cabinet is financially incapable of fulfilling the fairly modest obligations imposed on it by HB 3 is hardly credible given the scale of the Cabinet’s budget. And even so, the inadequacy of the budget—perceived or real—is not a reason to fail to faithfully execute the law as required by Section 81 of the Kentucky Constitution. *See Fletcher*, 163 S.W.3d at 873 (reiterating the Governor’s obligation to faithfully execute the law, even when funding may be scarce). To allow otherwise would be to improperly allow the executive to exercise a legislative function. The level of funding provided to an executive agency is a policy decision that

belongs to the General Assembly, and the Cabinet is obliged to fulfill its duties under HB 3 with the funds appropriated to it.

41. The Commonwealth seeks a declaration of law that it is a violation of the Kentucky Constitution for an executive agency to decline to comply with a duly enacted law on the basis of insufficient funding when the General Assembly has enacted a budget.

42. The court may order a speedy hearing of an action for a declaratory judgment. Ky. R. Civ. P. 57.

## COUNT II

### WRIT OF MANDAMUS

43. The allegations in each of the foregoing paragraphs are incorporated as if fully set forth herein.

44. Relief by mandamus is the only adequate remedy available to the Commonwealth because abortion providers have argued, and a federal district court has agreed,<sup>1</sup> that abortion providers cannot comply with certain provisions of HB 3 until the Cabinet produces several forms and promulgates the necessary regulations or guidance. *See, e.g., Planned Parenthood*, 2022 WL 1597163 at \*6. Any further delay by the Cabinet impedes the Commonwealth's ability to enforce its duly enacted law and denies the citizens of the Commonwealth the benefit of much-needed reforms to the laws regulating abortion within the Commonwealth.

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<sup>1</sup> The Attorney General has taken an appeal from the district court's preliminary injunction.

45. The Commonwealth is irreparably injured when it cannot enforce “statutes enacted by representatives of its people.” *See Thompson v. DeWine*, 976 F.3d 610, 619 (6th Cir. 2020) (citation omitted). Furthermore, the inability to enforce HB 3 irretrievably harms the women and unborn children it was enacted to protect.

46. And, “[w]here the government is enforcing a statute designed to protect the public interest, it is not required to show irreparable harm to obtain injunctive relief; the statute’s enactment constitutes [the legislature’s] implied finding that violations will harm the public and ought, if necessary, be restrained.” *Boone Creek Properties, LLC v. Lexington-Fayette Urb. Cnty. Bd. of Adjustment*, 442 S.W.3d 36, 40 (Ky. 2014) (quoting 42 Am.Jur.2d *Injunctions* § 147). HB 3 is an Act relating to public health, and its purposes demonstrate that it is designed to protect the public interest and violations of it would be harmful to the government and to the people of the Commonwealth. *See Cameron v. Beshear*, 628 S.W.3d 61, 78 (Ky. 2021) (making it clear that the General Assembly is the body that speaks for the public’s interest and that a trial court should not “substitute its view of the public interest for that expressed by the General Assembly”).

47. The question as to whether the Cabinet is required to act in the absence of a specific appropriation is a substantial question, and as discussed above, the Commonwealth is likely to prevail on the merits.

48. It is in the public interest that the temporary injunction be granted so that the Commonwealth can enforce its duly enacted law. And there is no harm to the defendant in complying with a valid law. *See Cameron v. Beshear*, 628 S.W.3d at

73 noting that because “the General Assembly is the policy-making body for the Commonwealth, not the [Cabinet] or the courts, equitable considerations support enforcing a legislative body’s policy choices”).

49. The Commonwealth has established irreparable harm and a substantial question on the merits, and the balance of equities weighs in its favor such that a writ of mandamus should be granted. *See Maupin*, 575 S.W.2d at 697, 699 (“If the party requesting relief has shown a probability of irreparable injury, presented a substantial question as to the merits, and the equities are in favor of issuance, the temporary injunction should be awarded.”).

### REQUEST FOR RELIEF

WHEREFORE, the Commonwealth of Kentucky ex rel. Attorney General Daniel Cameron, requests as follows:

1. A declaratory judgment that the Defendant must comply fully and immediately with HB 3;
2. That a writ of mandamus issue from this Court, directing the Defendant to create and distribute immediately the report forms required in Section 13 of HB 3 because the statutory deadline has already passed;
3. That a writ of mandamus issue from this Court, directing the Defendant to promulgate administrative regulations to implement the Kentucky Abortion-Inducing Drug Certification Program and fetal remains provisions of HB 3, and to have such administrative regulations become effective immediately;
4. That a writ of mandamus issue from this Court, directing the Defendant to comply with all other mandates directed at the Cabinet in HB 3 in a reasonable time;
5. For its costs herein expended; and
6. For any and all other relief to which it may appear entitled.

Respectfully submitted,

**Daniel Cameron**  
**ATTORNEY GENERAL**

/s/ Christopher L. Thacker

Victor B. Maddox (KBA No. 43095)  
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*Counsel for the Commonwealth of Kentucky*



**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

PLANNED PARENTHOOD GREAT  
NORTHWEST, HAWAII, ALASKA,  
INDIANA & KENTUCKY, ET AL.

Plaintiffs,

v.

Civil Action No. 3:22-cv-00198-RGJ

DANIEL CAMERON, ET AL.

Defendant.

**STATUS REPORT**

Defendant, Eric Friedlander, in his official capacity as Secretary of the Cabinet for Health and Family Services (“CHFS”), provides the following status report pursuant to the Court’s Order regarding the requirements that House Bill 3 (R.S. 2022) places on CHFS regarding forms and administrative regulations. The General Assembly did not appropriate any funds to CHFS in House Bill 3, and in the absence of an appropriation these unfunded requirements may not be implemented. *See Fletcher v. Commonwealth*, 163 S.W.3d 852, 865 (Ky. 2005).

Section 1.

Requires CHFS to create a new form.

Section 4.

Requires CHFS to amend an existing reporting form that is required to be submitted to the Vital Statistics Branch within CHFS. Requires the Office of the Inspector General (“OIG”) within CHFS to annually audit reporting required to be submitted to the Vital Statistics Branch under Section 4. and Section 29. of House Bill 3 and to function as the health oversight agency of the Commonwealth for this specific purpose, requires the OIG to ensure that none of the information in the required audit report could reasonably lead to the identification of certain individuals, and requires the OIG to submit a written report to the General Assembly and the Attorney General by October 1 of each year that must include certain information specifically described by Section 4.

Section 8.

Requires CHFS to create a new form regarding patient consent to be used by a qualified physician as defined in House Bill 3 and requires the new form to contain certain information specifically identified in Section 8.

Section 9.

Requires CHFS to create a new form regarding certain reporting specifically identified in Section 9. that is to be made to CHFS.

Section 12.

Requires CHFS to create and publish printed material, which will require CHFS to amend 902 KAR 4:110; requires CHFS to publish a statement specifically identified in Section 12. on its website; and requires CHFS to on an annual basis review and update the specific statement and requires the statement to include certain information specifically identified in Section 12.

Section 13.

Requires CHFS to create and distribute the report forms required in Sections 1., 4., 8., 9., 25., 26., 27. and 29. of House Bill 3 within 60 days after the effective date of the bill; requires CHFS to prepare and submit a comprehensive annual statistic report to the General Assembly based on data gathered from reports required in Sections 1., 4., 8., 9., 25., 26., 27. and 29. of House Bill 3, and requires CHFS to make the aggregated data available to the public in an electronic format; requires CHFS to provide reports required by 1., 4., 8., 9., 25., 26., 27. and 29. by the Kentucky Board of Medical Licensure, the Kentucky Board of Pharmacy, state law enforcement offices, and child protective services upon request for use in the performance of their official duties; and requires CHFS to communicate the reporting requirements in 1., 4., 8., 9., 25., 26., 27. and 29. to all medical professional organizations, licensed physicians, hospitals, emergency medical service providers, abortion facilities, ambulatory surgical facilities, pharmacies, and other healthcare facilities operating in Kentucky.

Section 15.

Requires CHFS to promulgate a new administrative regulation to create a certification program to oversee and regulate the distribution and dispensing of certain drugs identified in House Bill 3, and requires the newly-created program to include certain certification requirements specifically identified in Section 15.

Section 16.

Requires CHFS to, at a minimum, impose certain requirements for the certification specifically identified in Section 15.

Section 17.

Requires CHFS to impose certain requirements on qualified physicians as defined in House Bill 3 and requires CHFS to create a new form to comply with certain requirements specifically identified in Section 17.

Section 18.

Requires CHFS to develop a plan to enforce the certification program that House Bill 3 requires it to create, and requires that the plan include certain conditions specifically identified in Section 18.

Section 19.

Requires CHFS to develop a complaint portal on its website for patients, pharmacy, nursing, and medical professionals and the public to submit information about potential violations of the certification program that House Bill 3 requires CHFS to create; requires that certain information specifically identified in Section 19. be listed on the portal; and requires CHFS to review each complaint and determine a disposition, including referral to another state department, within 30 days.

Section 21.

Requires CHFS to create a new form for certain individuals specifically identified in Section 21. to complete to meet certain reporting requirements specifically identified in Section 21.

Section 22.

Requires CHFS to create a new form through administrative regulations that document certain information specifically identified in Section 22., which requires CHFS to promulgate new administrative regulations to design the new form that Section 22. requires CHFS to create.

Section 26.

Requires CHFS to amend an existing form to include certain information specifically identified in Section 26.

Section 27.

Requires CHFS to create a new form that must include, at a minimum, certain information specifically identified in Section 27.

Section 28.

Requires CHFS to create a new form for the reporting to the Vital Statistics Branch within CHFS of certain prescriptions specifically identified in Section 28.; and requires the new form to contain, at a minimum, certain information specifically identified in Section 28.; and requires the Vital Statistics Branch within CHFS to promulgate new administrative regulations to assist in compliances with Section 28.

Respectfully Submitted

/s/Wesley W. Duke

Wesley W. Duke (KBA # 88404)

General Counsel

Cabinet for Health and Family Services

Office of Legal Services

275 East Main Street 5W-B

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CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2022, the above document was filed with the CM/ECF filing system, which electronically service a copy to all counsel of record.

/s/ Wesley W. Duke

FBDEA341-1CF4-4BF2-BD84-B7007BB82F8E : 000020 of 000054

Presiding Judge: HON. THOMAS DAWSON WINGATE (648243)

EXH : 000004 of 000004



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE GOVERNOR

Andy Beshear  
GOVERNOR

RECEIVED

APR 08 2022

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**VETO MESSAGE FROM THE**  
**GOVERNOR OF THE COMMONWEALTH OF KENTUCKY**  
**REGARDING HOUSE BILL 3 OF THE**  
**2022 REGULAR SESSION**

*I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:*

House Bill 3 of the 2022 Regular Session of the General Assembly in its entirety.

*House Bill 3 contains no exceptions or exclusions for pregnancies caused by rape or incest. Under House Bill 3, a 12-year-old child that is raped and impregnated by her father would not have the option of a procedure without both the consent of her mother and without also notifying her rapist – her father – at least 48 hours prior to obtaining a procedure or by petitioning a circuit or district court for a hearing where this violated and hurt child would be judged as to her: credibility and demeanor as a witness; ability to accept responsibility; ability to assess both the current and future life-impacting consequences of, and alternatives to, the procedure; and ability to understand the medical risks of the procedure and to apply that understanding to her decision.*

*Rape and incest are violent crimes. Victims of these crimes should have options, not be further scarred through a process that exposes them to more harm from their rapists or that treats them like offenders themselves.*


*Furthermore, House Bill 3 is likely unconstitutional. Similar statutes in Texas and Louisiana have been ruled unconstitutional by the United States Supreme Court. Specifically, House Bill 3 requires physicians performing nonsurgical procedures to maintain hospital admitting privileges in geographical proximity to the location where the procedure is performed. The Supreme Court has ruled such requirements unconstitutional as it makes it impossible for women, including a child who is a victim of rape or incest, to obtain a procedure in certain areas of the state.*

*To implement House Bill 3 would require the Cabinet for Health and Family Services to, among other things, create three new full-time positions, build an electronic database to store and track a certification and complaint program, and establish additional public reporting requirements at an estimated initial cost of close to \$1 million. However, the General Assembly does not appropriate any funds to the Cabinet in House Bill 3, which will result in underfunded essential programs and duties carried out by the Cabinet. The unfunded mandated also comes, meaning it*

*will go into effect without providing the Cabinet any resources or time to implement these changes and delaying access to legal procedures under the bill. An agency is under no obligation to carry out an unfunded mandate. In the absence of an appropriation, these unfunded statutes may not be implemented. See Fletcher v. Commonwealth, 163 S.W.3d 852, 865 (Ky. 2005).*

*For these reasons, I am vetoing House Bill 3.*

This, the 8<sup>th</sup> day of April, 2022.

  
Andy Beshear  
Governor





Commonwealth of Kentucky  
Office of the Attorney General

Daniel Cameron  
Attorney General

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May 27, 2022

Mr. Wesley Duke  
General Counsel  
Cabinet for Health and Family Services  
275 East Main Street  
Frankfort, Kentucky 40601

Re: CHFS's Obligations under House Bill 3

Dear Mr. Duke:

On April 13, 2022, the General Assembly overrode the Governor's veto of House Bill 3. Effective that same day, the law makes needed changes to Kentucky's regulation of abortion and tasks the Cabinet for Health and Family Services with implementing several of those changes. It also authorizes the Attorney General to enforce compliance with the law. *See* 2022 HB 3 § 31(1). To that end, I write to detail this Office's understanding of CHFS's obligations under HB 3 and to request confirmation that CHFS will fulfill those obligations on or before the 60-day statutory deadline.

As outlined in the attachment to this letter, HB 3 imposes a variety of obligations on CHFS. But in his veto message of the bill, the Governor claimed that, because HB 3 itself does not appropriate funds, the obligations the bill imposes on CHFS are "unfunded mandate[s]" that CHFS allegedly need not carry out. Without being asked about the issue, CHFS suggested the same in its filing in *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana & Kentucky, Inc. v. Cameron*. *See* Status Report at 1, No. 3:22-CV-198-RGJ (W.D. Ky. May 5, 2022). And the federal district court in that case discussed the proposition. *Planned Parenthood*, 2022 WL 1597163, at \*15 (W.D. Ky. May 19, 2022).

But that is not the law. The Governor must "take care that the laws be faithfully executed," Ky. Const. § 81, and only the legislative branch may suspend laws, *id.* § 15. So disregarding HB 3's statutory mandates would be an abdication of the Governor's constitutional duties. It would also effectively suspend HB 3—a clear, impermissible overreach by the executive branch.

And *Fletcher v. Commonwealth*, 163 S.W.3d 852 (Ky. 2005)—the only case the Governor, CHFS, and the federal district court have relied on in this regard—does not prove otherwise. Instead, the Supreme Court of Kentucky in *Fletcher* held that if the General

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Assembly fails to pass a budget the Governor may not implement his own, because Section 230 of the Kentucky Constitution places the taxing and spending power solely within the legislative branch. *Id.* at 864–65. That situation does not apply here. And although the Court noted that the “existence of a law does not mean that it must be implemented if doing so requires the expenditure of unappropriated funds,” *id.* at 869, this passage cannot be read to suggest that every law must have its own independent appropriation to fund its implementation. The General Assembly may—and regularly does—expect that agencies will use the general funds appropriated to comply with statutory obligations.

That is the case here. The General Assembly appropriated general funds to finance CHFS’s operations, including timely implementation of HB 3. 2022 HB 1 § 1, Part 1, G. The level of funding provided was a policy decision left to the General Assembly, and CHFS is obliged to fulfill its duties under HB 3 with the funds appropriated to it. That the Secretary may believe the level of funding is inadequate is no excuse for CHFS to ignore its statutory obligations. Indeed, the Court in *Fletcher* reiterated the Governor’s obligation to faithfully execute the law, even when funding may be scarce:

If 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. If the citizenry deems those services insufficient, it will exercise its own constitutional power—the ballot.

163 S.W.3d at 873. And here this is not even an issue because funding is not scarce. The recently passed budget allocates significant general funding to CHFS over the next two fiscal years. 2022 HB 1 § 1, Part 1, G. Thus, there is no basis in Kentucky law for CHFS to ignore its obligations under HB 3.

The federal district court’s recent order enjoining enforcement of parts of HB 3 does not change that. Importantly, the court granted a preliminary injunction only “to the extent that Defendants are restrained from enforcing specific provisions of HB 3 . . . related to reporting and registration programs not yet created or promulgated by the Cabinet.” *Planned Parenthood*, 2022 WL 1597163, at \*1. The court explicitly clarified that the injunction “does not prevent the Cabinet from taking any steps it considers appropriate to comply with the Kentucky Legislature’s mandates.” *Id.* Thus, that injunction does not run to benefit CHFS. The district court even stated as much: “The Court did not resolve any issues of state budgeting law in its Preliminary Injunction. It did not direct the Cabinet to do anything or relieve them of any obligations under Kentucky law.” *Planned Parenthood*, No. 3:22-CV-198-RGJ, slip op. at 23 (W.D. Ky. May 26, 2022).

And the court was right to recognize that. Issues of Kentucky budgeting law were never briefed, were not part of any claim before the court, and touch on the rights and duties of non-adverse parties in that litigation—both CHFS and the Attorney General are defendants in that case. Thus, any suggestion by the district court that CHFS need not fulfill its obligations under HB 3 because of funding issues was non-binding dictum. *See Preterm-Cleveland v. McCloud*, 994 F.3d 512, 542–43 (6th Cir. 2021) (en banc) (defining “dictum,” distinguishing it from a court’s holding, and recognizing that only the latter is binding). Any



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argument otherwise would easily fail practically each issue-preclusion requirement, for example. *See, e.g., United States v. United Techs. Corp.*, 782 F.3d 718, 725 (6th Cir. 2015); *Moore v. Commonwealth*, 954 S.W.2d 317, 319 (Ky. 1997).

This Office therefore respectfully requests that you closely review the duties imposed by HB 3 and confirm no later than Friday, June 3, 2022, that CHFS will timely comply with its statutory mandates. If CHFS declines to respond, maintains that it may ignore its duties under HB 3, or suggests that it cannot or will not timely fulfill its obligations under the statute, the Attorney General will faithfully carry out his duties under Kentucky law. *See* 2022 HB 3 § 31(1); KRS 15.020(1), (3).

If you have any questions about this Office's position, please let me know.

Sincerely,

/s/ Victor B. Maddox

Victor B. Maddox  
*Deputy Attorney General*

Enclosure

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### **CHFS's Obligations Under House Bill 3**

House Bill 3 requires the Cabinet for Health and Family Services to take several steps to implement the law. The Attorney General outlines below his understanding of CHFS's obligations under HB 3, which include, among other things, creating forms and promulgating regulations. He does not, however, purport to identify *every* duty imposed on CHFS by HB 3, and CHFS should independently review the law to ensure it is in full compliance with all the law's provisions.

#### *Obligations related to forms*

First, HB 3 requires CHFS to create and distribute certain report forms. Section 13 provides that CHFS "shall create and distribute the report forms required in Sections 1, 4, 8, 9, 25, 26, 27, and 29 of this Act." 2022 HB 3 § 13(1). And CHFS must create and distribute those section's forms within sixty days of HB 3's April 13, 2022, effective date. *Id.*

Under Section 1, CHFS must supply a form for an attending physician to specify his or her basis for any medical judgment that warrants not obtaining the consent required by that section. *Id.* § 1(10). So that form must include an explanation of the required consent, *see id.* § 1(2)(a)–(c), and space for the physician to specify the medical reason why it was not obtained.

Under Section 4, CHFS must amend and distribute the form for abortion providers and physicians to report each abortion performed to the Vital Statistics Branch. *See id.* §§ 4(1), 13.<sup>1</sup> The form must include all the information that a physician has to certify under KRS 311.731, 311.7704, 311.7705, 311.7706, 311.7707, 311.774, 311.782, 311.783, as well as Sections 1, 8, and 9 of HB 3. *Id.* § 4(2). And there is certain additional information that must be included, *see id.* § 4(2)(a)–(s), like whether the patient suffered any adverse events and whether she was provided any follow-up treatment as required by Section 26. *See id.* §§ 4(2)(o), 26(3)–(4). CHFS must also create a report form for prescriptions issued for abortion-inducing drugs. *See id.* §§ 4(5), 13.

Under Section 8, CHFS must create a form for a qualified physician to obtain the informed consent of a patient receiving an abortion-inducing drug. *Id.* § 8(2). The form must include at least the information described in Section 8(4).

Under Section 9, CHFS must create and distribute three report forms. *Id.* §§ 9, 13. First, it must create a form for an abortion provider to report each abortion-inducing drug that a physician provides to a patient. *Id.* §§ 9(1), 26(1). Second, CHFS must create a form for a qualified physician to report any adverse events experienced by a woman who used an abortion-inducing drug. *Id.* § 9(2). And third, CHFS must create and distribute a form for a physician or healthcare provider to report the diagnosis or treatment of any complication or adverse event related to a drug-induced abortion. *Id.* § 9(3).

Under Section 25, hospitals, healthcare facilities, and physicians must file a written report with CHFS detailing abortion complications for any patient. *Id.* § 25(1). CHFS must

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<sup>1</sup> Section 21 reiterates this requirement. *See id.* § 21(3)–(4).

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create that form. *Id.* § 13. And it must include the information required under Section 4 but must not include the patient's name or common identifiers. *Id.* § 25(2)–(3).

Under Section 26, CHFS must provide a form to report prescriptions issued for abortion-inducing drugs. *Id.* § 26(1). It must include the information required by Section 4 in the form. *Id.*

Under Section 27, CHFS must provide a form for a physician to document the information required by Section 4 and an unborn child's probable gestational age, the results of any injuries suffered by the woman, and any medical examinations performed. *Id.* § 27(4).

For Section 29, CHFS must create the form for the reporting of prescriptions dispensed for drugs used in connection with an abortion. *Id.* §§ 13, 29(1). The report must not include patient-identifying information but must contain certain specified information. *Id.* § 29(1)–(2).

CHFS must inform all abortion facilities, licensed physicians, and other medical entities of their reporting requirements under Sections 1, 4, 8, 9, 25, 26, 27, and 29. *Id.* § 13(6). Once abortion providers submit their report forms under those sections, CHFS must “prepare and submit a comprehensive annual statistical report to the General Assembly based upon the data gathered from reports” and make the aggregated data electronically available to the public.<sup>2</sup> *Id.* § 13(2). It must also provide the reports “to the Kentucky Board of Medical Licensure, the Kentucky Board of Pharmacy, state law enforcement offices, and child protective services upon request for use in the performance of their official duties.” *Id.* § 13(3).

On top of the forms that CHFS must create under Section 13 and the sections it references, CHFS must also create additional forms. For example, under Section 22, CHFS must “design forms through administrative regulations that document” certain information related to fetal remains. *Id.* § 22(3). That information includes the age of the parents and a designation of how the remains are to be disposed. *Id.* § 22(3)(a), (d). HB 3 does not specify the time within which CHFS must create those forms. But CHFS must do so in a reasonable time. *See, e.g., Holliday v. Cornett*, 6 S.W.2d 497, 498 (Ky. 1928) (holding that a statute that did not provide a time limit “necessarily contemplates a reasonable length of time”).

#### *Obligations related to regulations*

HB 3 also tasks CHFS with promulgating certain administrative regulations implementing the bill. Sections 15 through 19 relate to a new program, the Kentucky Abortion-Inducing Drug Certification Program, that CHFS must create. Section 15 requires CHFS to promulgate regulations “to create a certification program to oversee and regulate the distribution and dispensing of abortion-inducing drugs.” 2022 HB 3 § 15(1). That includes establishing certification requirements for manufacturers and distributors of abortion-inducing drugs, pharmacies that dispense the drugs, and abortion facilities. *Id.* And those

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<sup>2</sup> In doing so, CHFS must not compare the data from the reports to other data that could identify a pregnant patient obtaining a drug-induced abortion. *Id.* § 13(4). Nor may it maintain any information that could reveal such a patient's identity. *Id.* § 13(5).

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requirements must include recognition of certain limitations on providing abortion-inducing drugs. *Id.* § 15(2).

Section 16 specifies several additional requirements on CHFS related to the regulations required by Section 15. For example, CHFS must require abortion providers, pharmacies, manufacturers, and distributors to compete the certification process as well as audit and ensure that those entities are complying with the program. *Id.* § 16(1)(a), (d).

Likewise, under Section 17, CHFS must impose certain requirements for a qualified physician to register as a nonsurgical abortion provider. *Id.* § 17(1). Those requirements include examining patients prior to providing abortion-inducing drugs and providing for emergency surgical intervention in cases of adverse events. *Id.* § 17(1)(b), (i). CHFS must also require registered physicians to maintain admitting privileges at one or more hospitals in the county or contiguous county where the abortion-inducing drugs will be provided, inform patients of that fact, and enter into a written agreement with a physician in that county or contiguous county. *Id.* § 17(2). That agreement must meet certain conditions, and CHFS must annually submit a copy of it to each hospital in the county or contiguous county. *Id.* § 17(2)(b).

Under Section 22, as mentioned above, CHFS must “design forms through administrative regulations that document” certain information related to fetal remains. *Id.* § 22(3). It must also promulgate administrative regulations to aid in the private interment of fetal remains. *Id.* § 22(4)(d).

#### *Other obligations*

HB 3 also imposes several other obligations on CHFS. First, CHFS must “annually audit the required reporting of abortion-related information to the Vital Statistics Branch” in Sections 4 and 29. *Id.* § 4(11). And in doing so, it must function “as a health oversight agency.” *Id.*

Second, CHFS must publish in printed material and maintain on its website the statement specified in Section 12(1) and include information “for assistance in locating a medical professional who can aid in the reversal of a drug-induced abortion.” *Id.* § 12(1)–(2). Additionally, it must annually review and update that statement if necessary. *Id.* § 12(2).

Third, CHFS must “develop a plan to enforce” the abortion-inducing-drug-certification program, which must include certain conditions. *See id.* § 18(1).

Fourth, CHFS must develop a complaint portal on its website for individuals to submit information about potential violations of the abortion-inducing-drug-certification program. *Id.* § 19(1). The portal must list the names of entities certified or registered under the program and allow for anonymous complaints. *Id.* § 19(3). And CHFS must review and determine a disposition of each complaint within 30 days of submission. *Id.* § 19(4).

\* \* \*

Again, this list of obligations is non-exhaustive, and CHFS should independently review HB 3 to ensure that it is in full compliance with all the law’s provisions.



**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of Legal Services**

**Andy Beshear**  
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Secretary

**Wesley W. Duke**  
General Counsel

June 3, 2022

Mr. Victor B. Maddox  
Deputy Attorney General  
Capitol Building, Suite 118  
700 Capital Avenue  
Frankfort, Kentucky 40601

Dear Mr. Maddox:

I received your letter dated May 27, 2022, in which you threaten legal action against the Cabinet for Health and Family Services for alleged non-compliance with House Bill 3 (R.S. 2022) ("HB 3"), legislation the United States District Court for the Western District of Kentucky enjoined by Court Order on May 19, 2022. *See Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana & Kentucky, Inc. v. Cameron*, No. 3:22-CV-198-RGJ. First, your assertions that the Cabinet is refusing to comply with or ignoring any requirements imposed on it by HB 3 are not accurate. As you know, the Cabinet has informed the Court otherwise on numerous occasions. The Cabinet will continue to comply with the law, including continuing its work to fulfill its obligations under HB 3 as set forth in the Court's Orders.

Second, your letter appears to ask the Cabinet to ignore the Court's Order or face legal action by your office if it does not. As you are aware, however, the Court's preliminary injunction against HB 3 specifically enjoined relevant provisions that hinge on the Cabinet as long as HB 3 remains unfunded or until such time as the requisite forms, regulations, and programs are implemented by the Cabinet. Any disagreement with the Court's preliminary injunction or Orders should be addressed to the Court, not through the threat of legal action against the Cabinet that would evade the Court's jurisdiction.

Sincerely,

Wesley W. Duke  
General Counsel

**TEAM**  
**KENTUCKY**

## CHAPTER 169

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(1) **Computer Services Fund Receipts:** The Secretary of the Finance and Administration Cabinet shall provide a listing of fee receipts from the Executive, Judicial, and Legislative Branches of government itemized by appropriation units, cost allocation methodology, and a report detailing the rebate of excess fee receipts to the agencies to the Interim Joint Committee on Appropriations and Revenue by August 1 of each fiscal year.

(2) **Service Rates:** Notwithstanding KRS 45.253(6), the Commonwealth Office of Technology shall maintain the rate schedule in effect in fiscal year 2019-2020 for services rendered or materials furnished during the 2020-2022 fiscal biennium, unless the services or materials are required by law to be furnished gratuitously. Enterprise assessments and security assessments not directly related to specific rated services shall not exceed fiscal year 2019-2020 levels.

## 8. REVENUE

	2020-21	2021-22
General Fund (Tobacco)	250,000	250,000
General Fund	100,026,900	104,202,800
Restricted Funds	13,834,000	12,789,300
Federal Funds	233,700	-0-
Road Fund	3,773,800	-0-
TOTAL	118,118,400	117,242,100

(1) **Operations of Revenue:** Notwithstanding KRS 132.672, 134.552(2), 136.652, and 365.390(2), funds may be expended in support of the operations of the Department of Revenue.

(2) **State Enforcement:** Notwithstanding KRS 248.654 and 248.703(4), a total of \$250,000 of the Tobacco Settlement payments received in each fiscal year is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's diligent enforcement of noncompliant nonparticipating manufacturers.

## 9. PROPERTY VALUATION ADMINISTRATORS

	2020-21	2021-22
General Fund	56,446,700	56,593,800
Restricted Funds	3,500,000	3,500,000
TOTAL	59,946,700	60,093,800

(1) **Management of Expenditures:** Notwithstanding KRS 132.590 and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

(2) **Property Valuation Administrators' Expense Allowance:** Notwithstanding KRS 132.597, each property valuation administrator shall receive an expense allowance of \$2,400 annually, payable out of the State Treasury at the rate of \$200 per month in the 2020-2022 fiscal biennium.

(3) **Salary Increment:** Notwithstanding KRS 132.590, no increment is provided on the base salary or wages of each eligible property valuation administrator.

## TOTAL - FINANCE AND ADMINISTRATION CABINET

	2019-20	2020-21	2021-22
General Fund (Tobacco)	-0-	31,113,200	26,851,200
General Fund	2,800,000	685,172,300	725,979,300
Restricted Funds	-0-	252,935,100	259,265,600
Federal Funds	-0-	19,512,800	150,400
Road Fund	-0-	4,047,400	-0-
TOTAL	2,800,000	992,780,800	1,012,246,500

## G. HEALTH AND FAMILY SERVICES CABINET

**Budget Units****1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT**

	<b>2020-21</b>	<b>2021-22</b>
General Fund	10,323,200	10,350,000
Restricted Funds	53,366,200	53,384,300
Federal Funds	48,932,500	48,859,100
<b>TOTAL</b>	<b>112,621,900</b>	<b>112,593,400</b>

(1) **Debt Service:** Included in the above General Fund appropriation is \$199,000 in fiscal year 2020-2021 and \$182,000 in fiscal year 2021-2022 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Human Services Transportation Delivery:** Notwithstanding KRS 281.010, the Kentucky Works Program shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee.

(3) **Federally Funded Positions:** Notwithstanding KRS 18A.010(2) and any provisions of this Act to the contrary, direct service units of the Office of Inspector General, Department for Income Support, Office for Children with Special Health Care Needs, Department for Community Based Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, Family Resource Centers and Volunteer Services, Department for Aging and Independent Living, and the Department for Public Health shall be authorized to establish and fill such positions that are 100 percent federally funded for salary and fringe benefits.

(4) **Kentucky All Schedule Prescription Electronic Reporting (KASPER) System:** In accordance with the appropriation as set forth in Part II, G., 1., 002. of this Act, the Cabinet for Health and Family Services shall issue a Request for Proposals to determine if a vendor can provide a system that is a scalable, cloud-based solution and is capable of best practices, including analytics and administrative dashboards, that also enables critical communications between practitioners, administrators, and doctors, and readily bridges patient transition directly to treatment. The Cabinet may include additional requirements for system functionalities that may improve the implementation of a new KASPER program. A Request for Proposals shall be issued by October 1, 2021. Notwithstanding KRS 45.229, in the event that the Cabinet fails to issue a Request for Proposals by October 1, 2021, an amount of \$693,000 of the General Fund appropriation within the General Administration and Program Support budget unit shall lapse to the Budget Reserve Trust Fund Account (KRS 48.705) on October 2, 2021, and shall be used for no other purpose.

(5) **Special Olympics:** Included in the above General Fund appropriation is \$50,000 in each fiscal year to support the operations of Special Olympics Kentucky.

**2. OFFICE FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS**

	<b>2020-21</b>	<b>2021-22</b>
General Fund	3,863,100	5,851,900
Restricted Funds	11,439,500	8,982,600
Federal Funds	4,551,800	4,564,800
<b>TOTAL</b>	<b>19,854,400</b>	<b>19,399,300</b>

**3. MEDICAID SERVICES****a. Medicaid Administration**

	<b>2020-21</b>	<b>2021-22</b>
General Fund	59,304,800	59,310,400
Restricted Funds	12,547,500	12,568,700
Federal Funds	165,853,300	165,864,500
<b>TOTAL</b>	<b>237,705,600</b>	<b>237,743,600</b>

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**(1) Transfer of Excess Administrative Funds for Medicaid Benefits:** If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

- (a) Establish a new program;
- (b) Expand the services of an existing program; or
- (c) Increase rates or payment levels in an existing program.

Any transfer authorized under this subsection shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

**(2) Medicaid Service Category Expenditure Information:** No Medicaid managed care contract shall be valid and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Cabinet for Health and Family Services shall be made, unless the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

**b. Medicaid Benefits**

	2020-21	2021-22
General Fund	2,018,893,700	1,934,395,200
Restricted Funds	713,921,500	1,510,913,700
Federal Funds	11,745,488,200	11,483,841,700
TOTAL	14,478,303,400	14,929,150,600

**(1) Transfer of Medicaid Benefits Funds:** Any portion of the General Fund appropriation in either fiscal year that is deemed to be necessary for the administration of the Medicaid Program may be transferred from the Medicaid Benefits budget unit to the Medicaid Administration budget unit in accordance with statutes governing the functions and activities of the Department for Medicaid Services. The Secretary shall recommend any proposed transfer to the State Budget Director for approval prior to transfer. Such action shall be reported by the Cabinet for Health and Family Services to the Interim Joint Committee on Appropriations and Revenue.

**(2) Intergovernmental Transfers (IGTs):** Any funds received through an Intergovernmental Transfer (IGT) agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved State Plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. Revenues from IGTs are contingent upon agreement by the parties, including but not limited to the Cabinet for Health and Family Services, Department for Medicaid Services, and the appropriate providers. The Secretary of the Cabinet for Health and Family Services shall make the appropriate interim appropriations increase requests pursuant to KRS 48.630.

**(3) Medicaid Benefits Budget Deficit:** If Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health and Family Services may recommend and implement that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed and approved by the Office of State Budget Director. No rate, service, eligible, or program reductions shall be implemented by the Cabinet for Health and Family Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health and Family Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue.

**(4) Kentucky Access Fund:** Notwithstanding KRS 304.17B-021, funds are transferred from this source to Medicaid Benefits in each fiscal year.

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Presiding Judge: HON. THOMAS DAWSON WINGATE (648243)

EXH : 000003 of 000010



(5) **Disproportionate Share Hospital (DSH) Program:** Hospitals shall report the uncompensated care for which, under federal law, the hospital is eligible to receive disproportionate share payments. Disproportionate share payments shall equal the maximum amounts established under federal law.

(6) **Medicaid Pharmacy:** Notwithstanding KRS 205.6312(4), a pharmacy provider participating in the Medical Assistance Program or a pharmacy provider serving Kentucky Medicaid recipients through a Medicaid Managed Care Organization shall not be required to serve an eligible recipient if the recipient does not make the required copayment at the time of service. An exception to this provision shall be an encounter when a recipient presents a condition which could result in harm to the recipient if left untreated, in which case the pharmacist shall dispense a 72-hour emergency supply of the required medicine. The recipient may then return to the pharmacy with the necessary copayment to obtain the remainder of the prescription. Only one dispensing fee shall be paid by the Cabinet for the provision of both the emergency supply and the remainder of the prescription. The Medicaid Managed Care Organization shall determine its policies with respect to dispensing fees.

(7) **Hospital Indigent Patient Billing:** Hospitals shall not bill patients for services if the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

(8) **Provider Tax Information:** Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that it has paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Programs. The Cabinet for Health and Family Services shall include this provision in facilities' annual licensure inspections.

(9) **Medicaid Budget Analysis Reports:** The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue no later than 75 days after the quarter's end. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

(10) **Medicaid Managed Care Organization Reporting:** Except as provided by KRS 61.878, all records and correspondence relating to Kentucky Medicaid, revenues derived from Kentucky Medicaid funds, and expenditures utilizing Kentucky Medicaid funds of a Medicaid managed care company operating within the Commonwealth shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All records and correspondence relating to Medicaid specifically prohibited from disclosure by the federal Health Insurance Portability and Accountability Act privacy rules shall not be provided under this Act.

No later than 60 days after the end of a quarter, each Medicaid managed care company operating within the Commonwealth shall prepare and submit to the Department for Medicaid Services sufficient information to allow the department to meet the following requirements 90 days after the end of the quarter. The Department shall forward to the Legislative Research Commission Budget Review Office a quarterly report detailing monthly actual expenditures by service category, monthly eligibles, and average monthly cost per eligible for Medicaid and the Kentucky Children's Health Insurance Program (KCHIP) along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for other categories such as pharmacy rebates and reinsurance. Finally, the Department shall include in this report the most recent information or report available regarding the amount withheld to meet Department of Insurance reserve requirements, and any distribution of moneys received or retained in excess of these reserve requirements.

(11) **Critical Access Hospitals:** Beginning with the effective date of this Act through June 30, 2022, no acute care hospital shall convert to a critical access hospital unless the hospital has either received funding for a feasibility study from the Kentucky State Office of Rural Health or filed a written request by January 1, 2020, with the Kentucky State Office of Rural Health requesting funding for conducting a feasibility study.

(12) **Appeals:** An appeal from denial of a service or services provided by a Medicaid managed care organization for medical necessity, or denial, limitation, or termination of a health care service in a case involving a medical or surgical specialty or subspecialty, shall, upon request of the recipient, authorized person, or provider, include a review by a board-eligible or board-certified physician in the appropriate specialty or subspecialty area; except in the case of a health care service rendered by a chiropractor or optometrist, for which the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky as specified in KRS 304.17A-

## CHAPTER 169

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607(1)(b). The physician reviewer shall not have participated in the initial review and denial of service and shall not be the provider of the service or services under consideration in the appeal.

**(13) Medicaid Prescription Benefits Reporting:** Notwithstanding KRS 205.647, the Department for Medicaid Services shall submit a report to the Interim Joint Committee on Appropriations and Revenue and the Medicaid Oversight and Advisory Committee by December 1 of each fiscal year on the dispensing of prescription medications to persons eligible under KRS 205.560. The report shall include:

- (a) The total Medicaid dollars paid to the state pharmacy benefit manager by a managed care organization;
- (b) The total amount of Medicaid dollars paid to the state pharmacy benefit manager by a managed care organization which were not subsequently paid to a pharmacy licensed in Kentucky;
- (c) The average reimbursement by drug ingredient cost, dispensing fee, and any other fee paid by the state pharmacy benefit manager to licensed pharmacies with which the state pharmacy benefit manager shares common ownership, management, or control; or which are owned, managed, or controlled by any of the state pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company; or which share any common members on the board of directors; or which share managers in common;
- (d) The average reimbursement by drug ingredient cost, dispensing fee, or any other fee paid by the state pharmacy benefit manager to pharmacies licensed in Kentucky which operate ten locations, ten or fewer locations, or ten or more locations; and
- (e) All common ownership, management, common members of a board of directors, shared managers, or control of the state pharmacy benefit manager, or any of the state pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company with any managed care organization contracted to administer Kentucky Medicaid benefits, any entity which contracts on behalf of a pharmacy, or any pharmacy services administration organization, or any common ownership management, common members of a board of directors, shared managers, or control of a pharmacy services administration organization that is contracted with the state pharmacy benefit manager, with any drug wholesaler or distributor or any of the pharmacy services administration organizations, management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, common members of a board of directors, manager, or holding company.

**(14) Kentucky Children's Health Insurance Program (KCHIP):** Included in the above appropriation is \$46,143,100 in General Fund, \$799,500 in Restricted Funds, and \$257,910,000 in Federal Funds in fiscal year 2020-2021 and \$44,281,500 in General Fund, \$605,200 in Restricted Funds, and \$232,258,200 in Federal Funds in fiscal year 2021-2022 to support the continuation of KCHIP services.

**(15) Supports for Community Living Waiver Program Rates:** If the Supports for Community Living Waiver Program experiences a material change in funding based upon a new or amended waiver that is approved by the Centers for Medicare and Medicaid Services, the Department for Medicaid Services may adjust the upper payment limit amount for a Supports for Community Living Waiver Program service as long as the upper payment limit for each service is not less than the upper payment limit in effect on January 1, 2020.

**(16) Substance Abuse Treatment for Incarcerated Individuals - Medicaid Demonstration Waiver:** Within ninety days after the effective date of this Act, the Department for Medicaid Services shall develop and submit an application for a Section 1115 demonstration waiver under 42 U.S.C. sec. 1315 to provide Medicaid coverage for substance use disorder treatment, including peer support services, to individuals incarcerated for a conviction under KRS Chapter 218A. Upon approval of the waiver, the cost of treatment for a substance use disorder or patient navigation provided by a licensed clinical social worker shall be a covered Medicaid benefit for an incarcerated individual.

**(17) Nursing Home Pandemic Relief Reimbursement Increase:** Included in the above appropriation is \$16,312,500 in General Fund and \$58,687,500 in Federal Funds for the period of January 1, 2021, through June 30, 2021, and \$16,312,500 in General Fund and \$58,687,500 in Federal Funds for the period of July 1, 2021, through December 31, 2021, for an additional reimbursement of \$29.00 per resident day for Medicaid eligible nursing home residents. The reimbursement increase shall only be used for personal protective equipment, COVID-19 testing, and staffing for Medicaid eligible nursing home residents. The reimbursement increase shall extend through the last day of the quarter in which the public health emergency for COVID-19 terminates as declared by the Secretary of the U.S. Department of Health and Human Services or December 31, 2021, whichever date occurs earlier. The Department for Medicaid Services shall file an emergency state plan amendment with the Centers for Medicare and

Medicaid Services by March 31, 2021, to effectuate the pandemic reimbursement increase. Notwithstanding KRS 45.229, any funds not expended during the period of January 1, 2021, through June 30, 2021, shall not lapse and shall carry forward for expenditures in fiscal year 2021-2022. Notwithstanding KRS 45.229, any portion of the General Fund moneys not expended for the purpose of providing the pandemic reimbursement increase shall lapse to the Budget Reserve Trust Fund Account (KRS 48.705) at the end of fiscal year 2021-2022.

**TOTAL - MEDICAID SERVICES**

	2020-21	2021-22
General Fund	2,078,198,500	1,993,705,600
Restricted Funds	726,469,000	1,523,482,400
Federal Funds	11,911,341,500	11,649,706,200
<b>TOTAL</b>	<b>14,716,009,000</b>	<b>15,166,894,200</b>

**4. BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES**

	2020-21	2021-22
General Fund (Tobacco)	1,916,000	1,950,500
General Fund	158,573,900	150,032,000
Restricted Funds	215,396,800	211,176,400
Federal Funds	108,552,900	95,540,400
<b>TOTAL</b>	<b>484,439,600</b>	<b>458,699,300</b>

**(1) Disproportionate Share Hospital Funds:** Pursuant to KRS 205.640(3)(a)2., mental health disproportionate share funds are budgeted at the maximum amounts permitted by Section 1923(h) of the Social Security Act. Upon publication in the Federal Register of the Annual Institutions for Mental Disease (IMD) Disproportionate Share Hospital (DSH) limit, 92.3 percent of the federal IMD DSH limit goes to the state-operated mental hospitals. If there are remaining funds within the psychiatric pool after all private psychiatric hospitals reach their hospital-specific DSH limit, state mental hospitals may exceed the 92.3 percent limit but may not exceed their hospital-specific DSH limit.

**(2) Lease Payments for Eastern State Hospital:** Included in the above General Fund appropriation is \$11,256,700 in fiscal year 2020-2021 and \$11,258,200 in fiscal year 2021-2022 to make lease payments to the Lexington-Fayette Urban County Government to retire its debt for the construction of the new facility.

**(3) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$1,416,000 in fiscal year 2020-2021 and \$1,450,500 in fiscal year 2021-2022 for substance abuse prevention and treatment for pregnant women with a history of substance abuse problems.

**(4) Debt Service:** Included in the above General Fund appropriation is \$275,000 in fiscal year 2020-2021 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

**(5) Kentucky Rural Mental Health and Suicide Prevention Pilot Program:** Included in the above General Fund (Tobacco) appropriation is \$500,000 in each fiscal year to support the Kentucky Rural Mental Health and Suicide Prevention pilot program. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall coordinate with the Kentucky Department of Agriculture, the University of Kentucky Southeast Center for Agricultural Health and Injury Prevention, and other entities to enhance awareness of the National Suicide Prevention Lifeline (988) in rural communities in Kentucky and to improve access to information on mental health issues and available treatment services. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall provide cultural competency training to staff to address the unique mental health challenges affecting the state's rural communities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall also provide outreach, treatment, and other necessary services to improve the mental health outcomes of rural communities in Kentucky. The Department for Behavioral Health, Developmental and Intellectual Disabilities, in conjunction with the Kentucky Department of Agriculture and the University of Kentucky Southeast Center for Agricultural Health and Injury Prevention, shall apply for federal funds as provided by the Agriculture Improvement Act of 2018, 7 U.S.C. sec. 5936, to supplement the General Fund (Tobacco) appropriation provided above. The Cabinet for Health and Family Services shall submit a report on the results of the pilot program, including

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but not limited to the number of participants, the mental health issues addressed, and the funding used to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Agriculture by June 30, 2021.

**(6) The Healing Place:** Included in the above General Fund appropriation is \$900,000 in each fiscal year to support direct services to clients provided by The Healing Place.

**(7) Regional Mental Health/Mental Retardation Boards Retirement Cost:** Included in the above General Fund appropriation is \$23,274,100 in fiscal year 2020-2021 for Regional Mental Health/Mental Retardation Boards to assist them with employer contributions for the Kentucky Employees Retirement System. In July and January of each year, the Department for Behavioral Health, Developmental and Intellectual Disabilities shall obtain the total creditable compensation reported by each Regional Mental Health/Mental Retardation Board to the Kentucky Retirement System and utilize that number to determine how much of this total appropriation shall be distributed to each Regional Mental Health/Mental Retardation Board. Payments to the Mental Health/Mental Retardation Boards shall be made on September 1 and April 1 of each fiscal year.

## 5. PUBLIC HEALTH

	2019-20	2020-21	2021-22
General Fund (Tobacco)	-0-	11,873,100	11,943,200
General Fund	300,000	66,670,100	52,433,100
Restricted Funds	-0-	84,625,500	87,483,100
Federal Funds	-0-	499,477,100	263,241,400
TOTAL	300,000	662,645,800	415,100,800

**(1) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$7,000,000 in each fiscal year for the Health Access Nurturing Development Services (HANDS) Program, \$942,000 in fiscal year 2020-2021 and \$965,000 in fiscal year 2021-2022 for Healthy Start initiatives, \$942,000 in fiscal year 2020-2021 and \$965,000 in fiscal year 2021-2022 for Early Childhood Mental Health, \$989,100 in fiscal year 2020-2021 and \$1,013,200 in 2021-2022 for Early Childhood Oral Health, and \$2,000,000 in each fiscal year for Smoking Cessation.

**(2) Local and District Health Department Retirement Cost:** Included in the above General Fund appropriation is \$25,394,600 in fiscal year 2020-2021 for Local and District Health Departments to assist them with employer contributions for the Kentucky Employees Retirement System. In July and January of each year, the Department for Public Health shall obtain the total creditable compensation reported by each Local and District Health Department Board to the Kentucky Retirement System and utilize that number to determine how much of this total appropriation shall be distributed to each department. Payments to the Local and District Health Departments shall be made on September 1 and April 1 of each fiscal year.

**(3) Local and District Health Department Fees:** Notwithstanding KRS 211.170 and 211.180, local and district health departments shall retain 90 percent of the fees collected for delivering foundational public health program services to fund the costs of operations, services, and the employer contributions for the Kentucky Employees Retirement System.

**(4) Kentucky Poison Control Center and COVID-19 Hotline:** Included in the above General Fund appropriation is \$300,000 in fiscal year 2019-2020, and \$1,850,000 in fiscal year 2020-2021 for the Kentucky Poison Control Center and COVID-19 Hotline. Included in the above General Fund appropriation is \$750,000 in fiscal year 2021-2022 for the Kentucky Poison Control Center. If federal emergency relief funds become available for COVID-19-related poison control expenditures, those Federal Funds shall be used first to support the Kentucky Poison Control Center and COVID-19 Hotline, and any unexpended General Fund balance from the appropriations set forth in this subsection shall lapse to the General Fund.

**(5) Kentucky Colon Cancer Screening Program:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the Kentucky Colon Cancer Screening Program.

**(6) Kentucky Pediatric Cancer Research Trust Fund:** Included in the above General Fund appropriation is \$2,500,000 in each fiscal year to the Kentucky Pediatric Cancer Research Trust Fund for general pediatric cancer research and support of expansion of clinical trials at the University of Kentucky and the University of Louisville.

**(7) Folic Acid Program:** General Fund (Tobacco) continuing appropriation reserves allotted to the Folic Acid Program shall be utilized by the Department for Public Health during the 2020-2022 fiscal biennium to continue the Folic Acid Program.

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## ACTS OF THE GENERAL ASSEMBLY

**6. FAMILY RESOURCE CENTERS AND VOLUNTEER SERVICES**

	<b>2020-21</b>	<b>2021-22</b>
General Fund	11,348,900	12,451,200
Federal Funds	7,053,300	7,053,300
<b>TOTAL</b>	<b>18,402,200</b>	<b>19,504,500</b>

**(1) Family Resource and Youth Services Centers Funds:** No more than three percent of the total funds transferred from the Department of Education to the Family Resource and Youth Services Centers, as consistent with KRS 156.496, shall be used for administrative purposes in each fiscal year.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a Family Resource and Youth Services Center, that center shall provide a report to the Cabinet for Health and Family Services and the State Budget Director identifying the salary of the director. The Cabinet for Health and Family Services shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this paragraph to the Legislative Research Commission.

**(2) Additional Centers:** Included in the above General Fund appropriation is \$1,100,000 in fiscal year 2021-2022 to support the operations of an additional 24 Family Resource and Youth Services Centers.

**7. INCOME SUPPORT**

	<b>2020-21</b>	<b>2021-22</b>
General Fund	13,616,600	13,616,600
Restricted Funds	13,053,500	12,930,900
Federal Funds	90,521,000	91,020,200
<b>TOTAL</b>	<b>117,191,100</b>	<b>117,567,700</b>

**8. COMMUNITY BASED SERVICES**

	<b>2020-21</b>	<b>2021-22</b>
General Fund (Tobacco)	12,250,000	12,311,000
General Fund	505,418,400	504,340,900
Restricted Funds	202,178,300	202,239,400
Federal Funds	710,631,100	650,370,100
<b>TOTAL</b>	<b>1,430,477,800</b>	<b>1,369,261,400</b>

**(1) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$9,750,000 in each fiscal year for the Early Childhood Development Program. Included in the above General Fund (Tobacco) appropriation is \$2,500,000 in fiscal year 2020-2021 and \$2,561,000 in fiscal year 2021-2022 for the Early Childhood Adoption and Foster Care Supports Program.

**(2) Contracted Entities Retirement Cost:** Included in the above General Fund appropriation is \$1,498,900 in fiscal year 2020-2021 for domestic violence shelters, rape crisis centers, and child advocacy centers to assist them with employer contribution rates for the Kentucky Employees Retirement System. In the interim, the contracted entities shall evaluate the feasibility of continued participation in the Kentucky Employees Retirement System as provided in KRS 61.522.

**(3) Fostering Success:** Included in the above General Fund appropriation is \$500,000 in each fiscal year for the Fostering Success Program. The Cabinet for Health and Family Services shall submit a report containing the results of the program, including but not limited to the number of participants, number and type of job placements, job training provided, and any available information pertaining to individual outcomes to the Interim Joint Committee on Appropriations and Revenue by July 1 of each fiscal year.

**(4) Relative Placement Support Benefit:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year for start-up costs associated with placing children with non-parental relatives.

**(5) Domestic Violence Shelters:** Included in the above General Fund appropriation is \$500,000 in each fiscal year for operational costs.

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(6) **Rape Crisis Centers:** Included in the above General Fund appropriation is \$500,000 in each fiscal year for operational costs.

(7) **Dually Licensed Pediatric Facilities:** Included in the above General Fund appropriation is \$550,000 in each fiscal year to provide supplemental payments to dually licensed pediatric facilities for emergency shelter services for children.

(8) **Child Care Assistance Program:** Included in the above General Fund appropriation is \$10,600,000 in each fiscal year to provide services to families at or below 160 percent of the federal poverty level as determined annually by the U.S. Department of Health and Human Services.

(9) **Family Counseling and Trauma Remediation:** Included in the above General Fund appropriation is \$50,000 in each fiscal year to provide forensic interviews, family counseling, and trauma remediation services primarily in Jefferson County and surrounding Kentucky counties.

(10) **Child Advocacy Centers:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the operations of the child advocacy centers.

(11) **Family Scholar House:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year to support the operations of the Family Scholar House.

(12) **Personal Care Homes:** Included in the above General Fund appropriation is \$2,200,000 in each fiscal year to support an increase in the reimbursements provided to personal care homes.

(13) **Transition Aged Foster Youth:** Notwithstanding KRS 610.110(6), 620.140(1)(e), and 625.025, through September 30, 2021, youth in extended foster care may remain committed in the custody of the Cabinet for Health and Family Services or receive transitional living support past twenty-one years of age. Any youth over the age of eighteen who ended their commitment with the Cabinet during the COVID-19 public health emergency shall be permitted to voluntarily re-enter foster care and extend commitment. Extended commitment shall not be terminated solely due to age or noncompliance with education or work requirements because of COVID-19.

(14) **Children's Services Contractors:** Notwithstanding KRS Chapter 45A, no contracts awarded for the use and benefit of the Department for Community Based Services shall interfere with the contractor's freedom of religion as set forth in KRS 446.350. Any such contracts shall contain a provision allowing a contractor to allow a substitute contractor who is also licensed or approved by the Cabinet to deliver the contracted services if the contractor cannot perform a contracted service because of religiously held beliefs as outlined in KRS 446.350.

## 9. AGING AND INDEPENDENT LIVING

	2020-21	2021-22
General Fund	45,269,700	45,293,900
Restricted Funds	2,816,700	2,787,400
Federal Funds	45,754,300	24,829,300
TOTAL	93,840,700	72,910,600

(1) **Local Match Requirements:** Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health and Family Services to provide essential services under KRS 205.455 and 205.460 shall provide local match equal to or greater than the amount in effect during fiscal year 2019-2020. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health and Family Services shall prescribe the procedures to certify the local match compliance.

## 10. HEALTH DATA AND ANALYTICS

	2020-21	2021-22
General Fund	481,400	482,000
Restricted Funds	16,318,900	23,301,900
Federal Funds	25,095,200	9,287,700
TOTAL	41,895,500	33,071,600

(1) **Kentucky Access Fund:** Notwithstanding KRS 304.17B-021, funds from this source are transferred to the Health Benefit Exchange in each fiscal year.

**TOTAL - HEALTH AND FAMILY SERVICES CABINET**

	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>
General Fund (Tobacco)	-0-	26,039,100	26,204,700
General Fund	300,000	2,893,763,800	2,788,557,200
Restricted Funds	-0-	1,325,664,400	2,125,768,400
Federal Funds	-0-	13,451,910,700	12,844,472,500
<b>TOTAL</b>	<b>300,000</b>	<b>17,697,378,000</b>	<b>17,785,002,800</b>

**H. JUSTICE AND PUBLIC SAFETY CABINET****Budget Units****1. JUSTICE ADMINISTRATION**

	<b>2020-21</b>	<b>2021-22</b>
General Fund (Tobacco)	3,516,600	3,593,800
General Fund	34,937,200	35,817,200
Restricted Funds	8,025,500	6,733,900
Federal Funds	45,119,800	45,125,000
<b>TOTAL</b>	<b>91,599,100</b>	<b>91,269,900</b>

**(1) Operation UNITE:** (a) Notwithstanding KRS 48.005(4), included in the above Restricted Funds appropriation is \$1,500,000 in each fiscal year for the Operation UNITE Program from settlement funds resulting from the suit against Purdue Pharma, et al.. Included in the above General Fund appropriation is \$500,000 in each fiscal year for the Operation UNITE Program.

(b) For the period ending June 30, 2020, the Secretary of the Justice and Public Safety Cabinet, in coordination with the Chief Executive Officer of Operation UNITE, shall prepare a report detailing for what purpose and function the funds were utilized. This report shall be submitted to the Interim Joint Committee on Appropriations and Revenue by September 1 of fiscal year 2020-2021.

**(2) Office of Drug Control Policy:** Included in the above General Fund (Tobacco) appropriation is \$3,166,600 in fiscal year 2020-2021 and \$3,243,800 in fiscal year 2021-2022 for the Office of Drug Control Policy.

**(3) Access to Justice:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the Access to Justice Program.

**(4) Court Appointed Special Advocate Funding:** (a) Included in the above General Fund appropriation is \$1,500,000 in each fiscal year for grants to support Court Appointed Special Advocate (CASA) funding programs.

(b) No administrative costs shall be paid from the appropriation provided in paragraph (a) of this subsection.

**(5) Restorative Justice:** Included in the above General Fund (Tobacco) appropriation is \$350,000 in each fiscal year to support the Restorative Justice Program administered by the Volunteers of America.

**(6) State Medical Examiner Offices:** (a) Included in the above General Fund appropriation is \$50,000 in fiscal year 2020-2021 and \$325,000 in fiscal year 2021-2022 for the realignment of staffing to address caseloads.

(b) Included in the above Restricted Funds appropriation is \$900,000 in fiscal year 2021-2022 to support toxicology needs.

(c) Included in the above General Fund appropriation is \$593,700 in fiscal year 2021-2022 to reestablish the Northern Kentucky Regional Medical Examiner's Office.

(d) The Secretary of the Justice and Public Safety Cabinet shall prepare a report detailing the realignment of existing Medical Examiner offices in order to best meet the needs of the program. This report shall be submitted to the Interim Joint Committee on Appropriations and Revenue by July 1, 2022.

**2. CRIMINAL JUSTICE TRAINING**

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Restricted Funds	315,900	13,133,500	13,132,600
TOTAL	6,266,200	130,514,300	134,686,900

(1) **Operations of Revenue:** Notwithstanding KRS 132.672, 134.552(2), 136.652, and 365.390(2), funds may be expended in support of the operations of the Department of Revenue.

(2) **State Enforcement:** Notwithstanding KRS 248.654 and 248.703(4), a total of \$250,000 of the Tobacco Settlement payments received in each fiscal year is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's diligent enforcement of noncompliant nonparticipating manufacturers.

(3) **Office of Property Valuation Technical Equipment:** Included in the above General Fund appropriation is \$3,188,000 in fiscal year 2023-2024 to purchase computers, tablets, scanners, and other technical equipment needed to modernize the county property valuation offices. The Office of Property Valuation shall work with the Commonwealth Office of Technology to ensure the technical equipment is compatible with the digital mapping base that is being developed.

## 8. PROPERTY VALUATION ADMINISTRATORS

	2021-22	2022-23	2023-24
General Fund	2,767,500	63,823,200	64,518,800
Restricted Funds	286,300	4,786,300	4,786,300
TOTAL	3,053,800	68,609,500	69,305,100

(1) **Management of Expenditures:** Notwithstanding KRS 132.590 and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

(2) **Mandatory Services:** Included in the above General Fund appropriation is \$1,635,900 in fiscal year 2022-2023 and \$1,664,700 in fiscal year 2023-2024 to support the continuation of mandatory services in the property valuation administrators' offices.

(3) **Salary Increment:** Notwithstanding KRS 132.590, the increment provided on the base salary or wages of each eligible property valuation administrator shall be the same as that provided for eligible state employees in Part IV of this Act.

## TOTAL - FINANCE AND ADMINISTRATION CABINET

	2021-22	2022-23	2023-24
General Fund (Tobacco)	-0-	25,518,800	23,916,200
General Fund	12,281,000	636,848,600	661,360,200
Restricted Funds	3,348,100	272,057,000	272,581,300
Federal Funds	132,302,100	60,894,400	57,734,800
TOTAL	147,931,200	995,318,800	1,015,592,500

## G. HEALTH AND FAMILY SERVICES CABINET

### Budget Units

#### 1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2021-22	2022-23	2023-24
General Fund	178,200	10,640,300	10,640,200
Restricted Funds	1,876,400	57,039,700	57,428,200
Federal Funds	798,200	50,499,000	50,668,200
TOTAL	2,852,800	118,179,000	118,736,600



(1) **Human Services Transportation Delivery:** Notwithstanding KRS 281.010(27), the Kentucky Works Program shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee.

(2) **Federally Funded Positions:** Notwithstanding KRS 18A.010(2) and any provisions of this Act to the contrary, direct service units of the Office of Inspector General, Department for Income Support, Office for Children with Special Health Care Needs, Department for Community Based Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, Family Resource Centers and Volunteer Services, Department for Aging and Independent Living, and the Department for Public Health shall be authorized to establish and fill such positions that are 100 percent federally funded for salary and fringe benefits.

(3) **Special Olympics:** Included in the above General Fund appropriation is \$150,000 in each fiscal year to support the operations of Special Olympics Kentucky.

(4) **Electronic Health Records System Implementation:** The Cabinet for Health and Family Services shall implement a single, comprehensive, and integrated electronic health records system within the Cabinet which shall be utilized by all Cabinet departments.

## 2. OFFICE FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2021-22	2022-23	2023-24
General Fund	286,600	7,568,200	7,379,200
Restricted Funds	91,800	9,385,700	9,322,000
Federal Funds	117,200	4,753,900	4,754,300
TOTAL	495,600	21,707,800	21,455,500

(1) **Office for Children with Special Health Care Needs Operating Expenses:** Included in the above appropriation is \$863,000 in General Fund and \$100,000 in Restricted Funds in fiscal year 2022-2023 and \$798,500 in General Fund and \$35,600 in Restricted Funds in fiscal year 2023-2024 to support increased operating expenses.

(2) **Kids Center for Pediatric Therapies:** Included in the above General Fund appropriation is \$250,000 in fiscal year 2022-2023 to support program operations.

(3) **Electronic Health Records System Implementation:** Any funds expended for the implementation of an electronic health records system within the Office for Children with Special Health Care Needs shall be coordinated as specified in Part I, G., 1., (4) of this Act.

## 3. MEDICAID SERVICES

### a. Medicaid Administration

	2021-22	2022-23	2023-24
General Fund	5,700	69,695,000	70,437,500
Restricted Funds	411,500	57,157,600	52,020,600
Federal Funds	196,000	289,555,900	302,093,100
TOTAL	613,200	416,408,500	424,551,200

(1) **Transfer of Excess Administrative Funds for Medicaid Benefits:** If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

- (a) Establish a new program;
- (b) Expand the services of an existing program; or
- (c) Increase rates or payment levels in an existing program.

Any transfer authorized under this subsection shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

(2) **Medicaid Service Category Expenditure Information:** No Medicaid managed care contract shall be valid and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Cabinet for Health and Family Services shall be made, unless the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

(3) **Medicaid Information Technology Development:** Included in the above appropriation is \$2,660,100 in General Fund, \$4,713,300 in Restricted Funds, and \$60,856,200 in Federal Funds in fiscal year 2022-2023 and \$5,837,300 in General Fund, \$3,635,800 in Restricted Funds, and \$74,898,200 in Federal Funds in fiscal year 2023-2024 to support information technology projects for Medicaid claims administration, electronic visit verification, utilization management, and data analytics.

(4) **Electronic Health Record System:** Included in the above appropriation is \$607,300 in Restricted Funds and \$5,465,400 in Federal Funds in fiscal year 2022-2023 and \$2,095,600 in Restricted Funds and \$18,860,100 in Federal Funds in fiscal year 2023-2024 to support enhancements to the electronic health record system.

(5) **Home and Community Based Services (HCBS) Enhanced FMAP Reinvestment:** Included in the above appropriation is \$37,810,800 in Restricted Funds and \$52,502,500 in Federal Funds in fiscal year 2022-2023 and \$32,264,200 in Restricted Funds and \$40,022,600 in Federal Funds in fiscal year 2023-2024 to support activities to enhance, expand, and strengthen HCBS waiver services as provided in Section 9817 of the American Rescue Plan Act of 2021. Any additional nonclinical and clinical staff hired to perform duties funded through the above appropriation shall be federally funded time limited positions which shall expire as of March 31, 2024, notwithstanding federally provided extensions of funding timelines.

(6) **Medicaid Eligibility Determination Services:** Included in the above General Fund appropriation is \$4,000,000 in each fiscal year to support services performed by the Department for Community Based Services to determine eligibility for Medicaid benefits.

(7) **Program of All-Inclusive Care for the Elderly (PACE):** Included in the above appropriation is \$1,000,000 in Restricted Funds and \$1,000,000 in Federal Funds in each fiscal year to support the coordination of PACE services for eligible recipients.

(8) **Basic Health Program Information Technology System:** Included in the above appropriation is \$3,500,000 in General Fund and \$3,500,000 in Federal Funds in fiscal year 2022-2023 and \$1,000,000 in General Fund and \$1,000,000 in Federal Funds in fiscal year 2023-2024 to support enhancements to the Medicaid Management Information System (MMIS) for implementation of a Basic Health Program to provide a bridge health insurance plan for eligible recipients.

(9) **Electronic Health Records System Implementation:** Any funds expended for the implementation of an electronic health records system within the Department for Medicaid Services shall be coordinated as specified in Part I, G., 1., (4) of this Act.

**b. Medicaid Benefits**

	2021-22	2022-23	2023-24
General Fund	-0-	1,962,892,300	2,402,688,700
Restricted Funds	4,550,000	1,586,012,300	1,383,080,900
Federal Funds	721,214,300	11,723,695,600	12,061,242,200
TOTAL	725,764,300	15,272,600,200	15,847,011,800

(1) **Transfer of Medicaid Benefits Funds:** Any portion of the General Fund appropriation in either fiscal year that is deemed to be necessary for the administration of the Medicaid Program may be transferred from the Medicaid Benefits budget unit to the Medicaid Administration budget unit in accordance with statutes governing the functions and activities of the Department for Medicaid Services. The Secretary shall recommend any proposed

transfer to the State Budget Director for approval prior to transfer. Such action shall be reported by the Cabinet for Health and Family Services to the Interim Joint Committee on Appropriations and Revenue.

**(2) Intergovernmental Transfers (IGTs):** Any funds received through an Intergovernmental Transfer (IGT) agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved State Plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. Revenues from IGTs are contingent upon agreement by the parties, including but not limited to the Cabinet for Health and Family Services, Department for Medicaid Services, and the appropriate providers. The Secretary of the Cabinet for Health and Family Services shall make the appropriate interim appropriations increase requests pursuant to KRS 48.630.

**(3) Medicaid Benefits Budget Deficit:** If Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health and Family Services may recommend and implement that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed and approved by the Office of State Budget Director. No rate, service, eligible, or program reductions shall be implemented by the Cabinet for Health and Family Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health and Family Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue.

**(4) Kentucky Access Fund:** Notwithstanding KRS 304.17B-021, funds are transferred from this source to Medicaid Benefits in each fiscal year.

**(5) Disproportionate Share Hospital (DSH) Program:** Hospitals shall report the uncompensated care for which, under federal law, the hospital is eligible to receive disproportionate share payments. Disproportionate share payments shall equal the maximum amounts established under federal law.

**(6) Hospital Indigent Patient Billing:** Hospitals shall not bill patients for services if the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

**(7) Provider Tax Information:** Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that it has paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Programs. The Cabinet for Health and Family Services shall include this provision in facilities' annual licensure inspections.

**(8) Medicaid Budget Analysis Reports:** The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue no later than 75 days after the quarter's end. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

**(9) Medicaid Managed Care Organization Reporting:** Except as provided by KRS 61.878, all records and correspondence relating to Kentucky Medicaid, revenues derived from Kentucky Medicaid funds, and expenditures utilizing Kentucky Medicaid funds of a Medicaid managed care company operating within the Commonwealth shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All records and correspondence relating to Medicaid specifically prohibited from disclosure by the federal Health Insurance Portability and Accountability Act privacy rules shall not be provided under this Act.

No later than 60 days after the end of a quarter, each Medicaid managed care company operating within the Commonwealth shall prepare and submit to the Department for Medicaid Services sufficient information to allow the department to meet the following requirements 90 days after the end of the quarter. The Department shall forward to the Legislative Research Commission Budget Review Office a quarterly report detailing monthly actual expenditures by service category, monthly eligibles, and average monthly cost per eligible for Medicaid and the Kentucky Children's Health Insurance Program (KCHIP) along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for other categories such as pharmacy rebates and reinsurance. Finally, the Department shall include in this report the most recent information or report available regarding the

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amount withheld to meet Department of Insurance reserve requirements, and any distribution of moneys received or retained in excess of these reserve requirements.

**(10) Critical Access Hospitals:** Beginning with the effective date of this Act through June 30, 2024, no acute care hospital shall convert to a critical access hospital unless the hospital has either received funding for a feasibility study from the Kentucky State Office of Rural Health or filed a written request by January 1, 2022, with the Kentucky State Office of Rural Health requesting funding for conducting a feasibility study.

**(11) Appeals:** An appeal from denial of a service or services provided by a Medicaid managed care organization for medical necessity, or denial, limitation, or termination of a health care service in a case involving a medical or surgical specialty or subspecialty, shall, upon request of the recipient, authorized person, or provider, include a review by a board-eligible or board-certified physician in the appropriate specialty or subspecialty area; except in the case of a health care service rendered by a chiropractor or optometrist, for which the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky as specified in KRS 304.17A-607(1)(b). The physician reviewer shall not have participated in the initial review and denial of service and shall not be the provider of the service or services under consideration in the appeal.

**(12) Medicaid Prescription Benefits Reporting:** Notwithstanding KRS 205.647, the Department for Medicaid Services shall submit a report to the Interim Joint Committee on Appropriations and Revenue and the Medicaid Oversight and Advisory Committee by December 1 of each fiscal year on the dispensing of prescription medications to persons eligible under KRS 205.560. The report shall include:

- (a) The total Medicaid dollars paid to the state pharmacy benefit manager by a managed care organization;
- (b) The total amount of Medicaid dollars paid to the state pharmacy benefit manager by a managed care organization which were not subsequently paid to a pharmacy licensed in Kentucky;
- (c) The average reimbursement by drug ingredient cost, dispensing fee, and any other fee paid by the state pharmacy benefit manager to licensed pharmacies with which the state pharmacy benefit manager shares common ownership, management, or control; or which are owned, managed, or controlled by any of the state pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company; or which share any common members on the board of directors; or which share managers in common;
- (d) The average reimbursement by drug ingredient cost, dispensing fee, or any other fee paid by the state pharmacy benefit manager to pharmacies licensed in Kentucky which operate ten locations, ten or fewer locations, or ten or more locations; and
- (e) All common ownership, management, common members of a board of directors, shared managers, or control of the state pharmacy benefit manager, or any of the state pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company with any managed care organization contracted to administer Kentucky Medicaid benefits, any entity which contracts on behalf of a pharmacy, or any pharmacy services administration organization, or any common ownership management, common members of a board of directors, shared managers, or control of a pharmacy services administration organization that is contracted with the state pharmacy benefit manager, with any drug wholesaler or distributor or any of the pharmacy services administration organizations, management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, common members of a board of directors, manager, or holding company.

**(13) Kentucky Children's Health Insurance Program (KCHIP):** Included in the above appropriation is \$86,492,800 in General Fund, \$400,000 in Restricted Funds, and \$362,367,900 in Federal Funds in fiscal year 2022-2023 and \$91,336,100 in General Fund, \$400,000 in Restricted Funds, and \$380,029,200 in Federal Funds in fiscal year 2023-2024 to support the continuation of KCHIP services.

**(14) Supports for Community Living Waiver Program Rates:** If the Supports for Community Living Waiver Program experiences a material change in funding based upon a new or amended waiver that is approved by the Centers for Medicare and Medicaid Services, the Department for Medicaid Services may adjust the upper payment limit amount for a Supports for Community Living Waiver Program service as long as the upper payment limit for each service is not less than the upper payment limit in effect on January 1, 2020.

**(15) Substance Abuse Treatment for Incarcerated Individuals - Medicaid Demonstration Waiver:** Upon approval of the Section 1115 demonstration waiver to provide substance use disorder treatment services to

individuals incarcerated for conviction under KRS Chapter 218A, the cost of treatment for a substance use disorder or patient navigation provided by a licensed clinical social worker shall be a covered Medicaid benefit for an incarcerated individual.

**(16) Nursing Home Pandemic Relief Reimbursement Increase:** Included in the above appropriation is \$41,527,500 in General Fund and \$108,472,500 in Federal Funds in fiscal year 2022-2023 and \$41,745,000 in General Fund and \$108,255,000 in Federal Funds in fiscal year 2023-2024 to support an additional reimbursement of \$29.00 per resident day for Medicaid eligible nursing home residents.

**(17) Medicaid Benefits Program Support:** Included in the above appropriation is \$709,067,100 in Federal Funds in fiscal year 2021-2022, \$116,100,000 in Restricted Funds and \$31,489,200 in Federal Funds in fiscal year 2022-2023, and \$438,009,300 in General Fund, \$232,200,000 in Restricted Funds, and \$354,170,400 in Federal Funds in fiscal year 2023-2024 to support estimated program needs.

**(18) Michelle P. Waiver Slots:** Included in the above appropriation is \$464,700 in General Fund and \$1,194,900 in Federal Funds in fiscal year 2022-2023 to support 50 additional slots and \$929,400 in General Fund and \$2,389,800 in Federal Funds in fiscal year 2023-2024 to support 50 additional slots for a total of 100 slots over the 2022-2024 fiscal biennium.

**(19) Supports for Community Living Waiver Slots:** Included in the above appropriation is \$1,104,900 in General Fund and \$2,841,200 in Federal Funds in fiscal year 2022-2023 to support 50 additional slots and \$2,209,800 in General Fund and \$5,682,400 in Federal Funds in fiscal year 2023-2024 to support 50 additional slots for a total of 100 slots over the 2022-2024 fiscal biennium.

**(20) Home and Community Based Waiver Services Funding Initiatives:** (a) Pending approval from the Centers for Medicare and Medicaid Services, included in the above Federal Funds appropriation is \$48,311,000 in fiscal year 2022-2023 and \$71,505,000 in fiscal year 2023-2024 from the enhanced FMAP funds for Home and Community Based Services authorized by Section 9817 of the American Rescue Plan Act of 2021. The Cabinet for Health and Family Services shall use these funds to strengthen and improve Kentucky's Acquired Brain Injury (ABI), Acquired Brain Injury Long Term Care (ABI-LTC), Home and Community Based (HCB), Model II Waiver (MIIW), Supports for Community Living (SCL), and Michelle P. waiver programs through the following initiatives:

1. In fiscal year 2022-2023, the reimbursement rate for SCL Level I and ABI residential services shall be increased by 50 percent over the rate in effect on December 31, 2019. This reimbursement increase shall remain in effect in fiscal year 2023-2024. The Cabinet for Health and Family Services shall not implement exclusions to this reimbursement rate increase for day service attendance.

2. In fiscal year 2022-2023, the reimbursement rate for all services in the ABI, ABI-LTC, HCB, SCL, and Michelle P. waiver programs shall be increased by 10 percent, excluding the services described in subparagraph 1. of this paragraph.

3. In fiscal year 2023-2024, the reimbursement rate increase as provided in subparagraph 2. of this paragraph shall remain in effect, and the reimbursement rate for all services in the ABI, ABI-LTC, HCB, SCL, and Michelle P. waiver programs shall be increased by an additional 10 percent, excluding the services described in subparagraph 1. of this paragraph.

(b) It is the intent of the 2022 General Assembly that General Fund dollars will be appropriated to maintain the funding initiatives outlined in paragraph (a) of this subsection after the funds from the enhanced FMAP for Home and Community Based Services authorized by Section 9817 of the American Rescue Plan Act of 2021 are no longer available.

**(21) Medicaid Managed Care Chronic Disease Management Pilot Program:** The Department for Medicaid Services shall implement a pilot program to manage and reduce the adverse outcomes of chronic diseases such as diabetes experienced by individuals enrolled in the Medicaid program. The pilot program shall include strategies to effectuate behavioral change such as real-time monitoring via cellphones and additional evidence-based measures. The Department for Medicaid services shall require each Medicaid managed care organization participating in the Kentucky Medicaid program to provide the chronic disease management services as implemented through the pilot program as part of the contracted services.

**(22) Basic Health Program:** Notwithstanding any provision of law to the contrary, the Cabinet for Health and Family Services shall not exercise the state's option to develop a basic health program as permitted under 42 U.S.C. sec. 18051 without first obtaining specific authorization from the General Assembly to do so.

**TOTAL - MEDICAID SERVICES**

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	2021-22	2022-23	2023-24
General Fund	5,700	2,032,587,300	2,473,126,200
Restricted Funds	4,961,500	1,643,169,900	1,435,101,500
Federal Funds	721,410,300	12,013,251,500	12,363,335,300
TOTAL	726,377,500	15,689,008,700	16,271,563,000

#### 4. BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

	2021-22	2022-23	2023-24
General Fund (Tobacco)	-0-	1,400,000	1,400,000
General Fund	1,215,500	177,840,100	186,810,300
Restricted Funds	249,300	217,643,800	219,142,900
Federal Funds	161,400	117,259,600	107,459,000
TOTAL	1,626,200	514,143,500	514,812,200

**(1) Disproportionate Share Hospital Funds:** Pursuant to KRS 205.640(3)(a)2., mental health disproportionate share funds are budgeted at the maximum amounts permitted by Section 1923(h) of the Social Security Act. Upon publication in the Federal Register of the Annual Institutions for Mental Disease (IMD) Disproportionate Share Hospital (DSH) limit, 92.3 percent of the federal IMD DSH limit goes to the state-operated mental hospitals. If there are remaining funds within the psychiatric pool after all private psychiatric hospitals reach their hospital-specific DSH limit, state mental hospitals may exceed the 92.3 percent limit but may not exceed their hospital-specific DSH limit

**(2) Lease Payments for Eastern State Hospital:** Included in the above General Fund appropriation is \$9,811,200 in fiscal year 2022-2023 and \$9,810,000 in fiscal year 2023-2024 to make lease payments to the Lexington-Fayette Urban County Government to retire its debt for the construction of the new facility.

**(3) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$1,400,000 in each fiscal year for substance abuse prevention and treatment for pregnant women with a history of substance abuse problems.

**(4) Debt Service:** Included in the above General Fund appropriation is \$590,000 in fiscal year 2022-2023 and \$1,180,000 in fiscal year 2023-2024 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

**(5) The Healing Place:** Included in the above General Fund appropriation is \$900,000 in each fiscal year to support direct services to clients provided by The Healing Place.

**(6) Tim's Law Pilot Program Expansion:** Included in the above General Fund appropriation is \$500,000 in fiscal year 2022-2023 and \$1,000,000 in fiscal year 2023-2024 to support expansion of a pilot program for individuals with severe mental illness to additional locations to ensure statewide access to services offered through the pilot program.

**(7) Mobile Crisis Services Expansion and 988 Suicide Hotline Support:** Included in the above General Fund appropriation is \$6,170,700 in fiscal year 2022-2023 and \$13,437,000 in fiscal year 2023-2024 to support the establishment of additional mobile crisis units and implementation of the 988 federally designated suicide hotline.

**(8) Lee Specialty Clinic:** Included in the above General Fund appropriation is an additional \$1,495,000 in each fiscal year to support specialty medical services for individuals with moderate developmental and intellectual disabilities living in residential and community settings.

**(9) Appalachian Regional Hospital:** Included in the above General Fund appropriation is \$14,600,000 in each fiscal year to support contracted inpatient psychiatric services provided within Hospital District IV under KRS 210.300. The Secretary of the Cabinet for Health and Family Services shall provide a report on total expenditures by fund source and program area for fiscal year 2022-2023 and estimated funding required for a continuation of services in fiscal year 2023-2024 to the Interim Joint Committees on Health and Family Services and Appropriations and Revenue by September 1, 2023.

**(10) Substance Abuse Funding Report:** The Department for Behavioral Health, Developmental and Intellectual Disabilities shall compile for each fiscal year a report on the funding received by the Cabinet for Health and Family Services to provide substance abuse prevention, treatment, and recovery services in the Commonwealth. The report shall include the amount, source, and duration of the funding, the purpose of the funding, the number of individuals served, and any available information on outcomes demonstrated as a result of the funding provided for substance abuse prevention, treatment, and recovery services. The report shall be submitted to the Legislative Research Commission, Office of Budget Review, by September 1 of each fiscal year.

**(11) Electronic Health Records System Implementation:** Any funds expended for the implementation of an electronic health records system within the Department for Behavioral Health, Developmental and Intellectual Disabilities shall be coordinated as specified in Part I, G., 1., (4) of this Act.

**(12) Harbor House:** Included in the above Federal Funds appropriation is \$5,000,000 in fiscal year 2022-2023 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 to support the operations of the Harbor House.

**(13) Mental Health Workforce Development:** The Cabinet for Health and Family Services shall develop a pilot project to provide training for primary care providers relating to the diagnosis and treatment of common psychiatric disorders in order to strengthen the mental health workforce in rural and underserved areas and to expand the access to psychiatric services. The Cabinet shall develop the pilot project in coordination with the Train New Trainers Primary Care program at the University of California, Irvine.

## 5. PUBLIC HEALTH

	2021-22	2022-23	2023-24
General Fund (Tobacco)	-0-	12,200,000	12,200,000
General Fund	690,400	76,890,300	100,158,400
Restricted Funds	351,000	94,200,700	102,193,300
Federal Funds	700,100	439,878,200	307,606,700
TOTAL	1,741,500	623,169,200	522,158,400

**(1) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$7,000,000 in each fiscal year for the Health Access Nurturing Development Services (HANDS) Program, \$900,000 in each fiscal year for the Healthy Start initiatives, \$900,000 in each fiscal year for Early Childhood Mental Health, \$900,000 in each fiscal year for Early Childhood Oral Health, \$500,000 in each fiscal year for the Lung Cancer Screening Program, and \$2,000,000 in each fiscal year for Smoking Cessation.

**(2) Local and District Health Department Fees:** Notwithstanding KRS 211.170 and 211.186, local and district health departments shall retain 90 percent of the fees collected for delivering foundational public health program services to fund the costs of operations, services, and the employer contributions for the Kentucky Employees Retirement System.

**(3) Kentucky Poison Control Center:** Included in the above General Fund appropriation is \$750,000 in each fiscal year for the Kentucky Poison Control Center. If federal emergency relief funds become available for COVID-19 related poison control expenditures, those Federal Funds shall be used to support the Kentucky Poison Control Center, and any unexpended General Fund balance from the appropriations set forth in this subsection shall lapse to the General Fund.

**(4) Kentucky Colon Cancer Screening Program:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the Kentucky Colon Cancer Screening Program.

**(5) Kentucky Pediatric Cancer Research Trust Fund:** Included in the above General Fund appropriation is \$2,500,000 in each fiscal year to the Kentucky Pediatric Cancer Research Trust Fund for general pediatric cancer research and support of expansion of clinical trials at the University of Kentucky and the University of Louisville. Included in the above General Fund appropriation is an additional one-time allocation of \$3,750,000 in each fiscal year to the Kentucky Pediatric Cancer Research Trust Fund.

**(6) Folic Acid Program:** General Fund (Tobacco) continuing appropriation reserves allotted to the Folic Acid Program shall be utilized by the Department for Public Health during the 2022-2024 fiscal biennium to continue the Folic Acid Program.

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(7) **Public Health Transformation:** Included in the above General Fund appropriation is \$17,688,000 in fiscal year 2022-2023 and \$19,068,000 in fiscal year 2023-2024 to support the costs of workforce and operations for the local health departments.

(8) **Health Access Nurturing Development Services:** Included in the above Restricted Funds appropriation is \$6,068,900 in fiscal year 2022-2023 and \$13,972,900 in fiscal year 2023-2024 to support direct services for eligible clients of the Health Access Nurturing Development Services Program for the Department for Public Health.

(9) **Area Health Education Centers:** Included in the above Federal Funds appropriation is \$2,500,000 in each fiscal year from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 to support the operations of the eight regional Area Health Education Centers in the Commonwealth.

(10) **Electronic Health Record System:** Included in the above General Fund appropriation is \$1,207,900 in fiscal year 2022-2023 and \$22,950,100 in fiscal year 2023-2024 to support the purchase and implementation cost of an Electronic Health Record system for the Department for Public Health.

(11) **Lung Cancer Screening MCO:** Each Medicaid Managed Care Organization that has a participating contract with the Commonwealth for the next contract renewal cycle shall provide services for lung cancer screenings.

(12) **Electronic Health Records System Implementation:** Any funds expended for the implementation of an electronic health records system within the Department for Public Health shall be coordinated as specified in Part I, G., 1., (4) of this Act.

## 6. FAMILY RESOURCE CENTERS AND VOLUNTEER SERVICES

	2021-22	2022-23	2023-24
General Fund	54,900	22,557,300	22,566,200
Federal Funds	19,200	9,114,300	9,118,900
TOTAL	74,100	31,671,600	31,685,100

(1) **Family Resource and Youth Services Centers Funds:** No more than three percent of the total funds transferred from the Department of Education to the Family Resource and Youth Services Centers, as consistent with KRS 156.496, shall be used for administrative purposes in each fiscal year.

(2) **Per Eligible Student Amount:** Included in the above General Fund appropriation is \$9,400,000 in each fiscal year to support an increase in the per eligible student amount from \$183.86 to \$210.00 for the Family Resource and Youth Service Centers.

(3) **AmeriCorps Match:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the matching requirements of Federal Funds for the Division of Serve Kentucky.

## 7. INCOME SUPPORT

	2021-22	2022-23	2023-24
General Fund	-0-	14,293,100	14,969,600
Restricted Funds	164,100	16,633,600	16,663,500
Federal Funds	1,424,400	100,206,100	100,567,100
TOTAL	1,588,500	131,132,800	132,200,200

(1) **Contractual Services:** Included in the above appropriation is \$2,725,200 in Restricted Funds and \$5,290,300 in Federal Funds in each fiscal year to support the cost of contractual services for the Division of Child Support Enforcement.

(2) **Staffing Vacancies:** Included in the above appropriation is \$429,600 in Restricted Funds and \$1,002,300 in Federal Funds in each fiscal year to support hiring an additional 12 full-time staff positions, which include seven full-time positions for the creation of a Division of Fiscal Management and five Child Support Specialist positions for the Division of Child Support Enforcement.

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(3) **Debt Service:** Included in the above General Fund appropriation is \$676,500 in fiscal year 2022-2023 and \$1,353,000 in fiscal year 2023-2024 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

## 8. COMMUNITY BASED SERVICES

	2021-22	2022-23	2023-24
General Fund (Tobacco)	-0-	12,400,000	12,400,000
General Fund	13,859,100	631,088,600	652,595,200
Restricted Funds	771,900	209,841,100	210,454,900
Federal Funds	3,064,100	1,035,567,300	773,871,800
TOTAL	17,695,100	1,888,897,000	1,649,321,900

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$9,900,000 in each fiscal year for the Early Childhood Development Program. Included in the above General Fund (Tobacco) appropriation is \$2,500,000 in each fiscal year for the Early Childhood Adoption and Foster Care Supports Program.

(2) **CCAP Reimbursement Rate Increase:** Included in the above Federal Funds appropriation is \$12,000,000 in each fiscal year from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 to continue the \$2 per child increase in the Child Care Assistance Program provider reimbursement rate.

(3) **Fostering Success:** Included in the above General Fund appropriation is \$500,000 in each fiscal year for the Fostering Success Program. The Cabinet for Health and Family Services shall submit a report containing the results of the program, including but not limited to the number of participants, number and type of job placements, job training provided, and any available information pertaining to individual outcomes to the Interim Joint Committee on Appropriations and Revenue by July 1 of each fiscal year.

(4) **Relative Placement Support Benefit:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year for start-up costs associated with placing children with non-parental relatives.

(5) **Domestic Violence Shelters:** Included in the above General Fund appropriation is \$500,000 in each fiscal year for operational costs.

(6) **Rape Crisis Centers:** Included in the above General Fund appropriation is \$500,000 in each fiscal year for operational costs.

(7) **Dually Licensed Pediatric Facilities:** Included in the above General Fund appropriation is \$550,000 in each fiscal year to provide supplemental payments to dually licensed pediatric facilities for emergency shelter services for children.

(8) **Child Care Assistance Program:** Included in the above General Fund appropriation is \$10,600,000 in each fiscal year to provide services to families at or below 160 percent of the federal poverty level as determined annually by the U.S. Department of Health and Human Services.

(9) **Family Counseling and Trauma Remediation:** Included in the above General Fund appropriation is \$50,000 in each fiscal year to provide forensic interviews, family counseling, and trauma remediation services primarily in Jefferson County and surrounding Kentucky counties.

(10) **Child Advocacy Centers:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the operations of the child advocacy centers.

(11) **Family Scholar House:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year to support the operations of the Family Scholar House.

(12) **Personal Care Homes:** Included in the above General Fund appropriation is \$12,000,000 in each fiscal year to support reimbursements provided to personal care homes.

(13) **Children's Services Contractors:** Notwithstanding KRS Chapter 45A, no contracts awarded for the use and benefit of the Department for Community Based Services shall interfere with the contractor's freedom of religion as set forth in KRS 446.350. Any such contracts shall contain a provision allowing a contractor to allow a substitute contractor who is also licensed or approved by the Cabinet to deliver the contracted services if the contractor cannot perform a contracted service because of religiously held beliefs as outlined in KRS 446.350.

**(14) Additional Social Service Workers:** Included in the above appropriation is \$7,450,200 in General Fund, \$335,300 in Restricted Funds, and \$703,800 in Federal Funds in fiscal year 2022-2023 to support an additional 100 Social Service Worker \*\*[H]\*\* positions and \$14,900,400 in General Fund, \$670,600 in Restricted Funds, and \$1,407,600 in Federal Funds in fiscal year 2023-2024 to support an additional 100 Social Service Worker \*\*[H]\*\* positions for a total of 200 Social Service Worker \*\*[H]\*\* positions over the 2022-2024 fiscal biennium. The Cabinet for Health and Family Services shall submit a quarterly report containing the number of Social Service Worker, Social Service Clinician, Social Service Specialist, and Family Services Office Supervisor filled positions to the Interim Joint Committee on Appropriations and Revenue, with the first report due July 1, 2022.

**(15) Social Service Worker Recruitment:** Included in the above General Fund appropriation is \$1,500,000 in fiscal year 2022-2023 and \$2,400,000 in fiscal year 2023-2024 to support the recruitment initiative. Notwithstanding any statute to the contrary, by July 1, 2022, the Secretary of the Personnel Cabinet shall increase the entry rate salary of the Social Service Worker I, Social Service Worker II, Social Service Clinician I, Social Service Clinician II, Social Service Specialist, and Family Services Office Supervisor classified positions in the Department for Community Based Services within the Cabinet for Health and Family Services by ten percent. Notwithstanding any statute to the contrary, to effectuate the salary increases as specified, the Secretary of the Personnel Cabinet shall establish a special entry rate for the classifications above in the Department for Community Based Services, raise the grade levels of the above classifications, or establish a new classification reserved for use by the Department for Community Based Services.

**(16) Prevention Services Expansion:** Included in the above appropriation is \$10,000,000 in General Fund and \$9,600,000 in Federal Funds in each fiscal year of the 2022-2024 biennium to support the development of programs included in Kentucky's Title IV-E Prevention Plan as approved by the U.S. Department of Health and Human Services and to expand Kentucky Strengthening Ties and Empowering Parents (K-STEP) to additional regions in the Commonwealth.

**(17) Residential and Therapeutic Foster Care Rates:** Included in the above appropriation is \$25,000,000 in General Fund, \$5,000,000 in Restricted Funds, and \$6,000,000 in Federal Funds in each fiscal year to support an increase in the reimbursement rates for private residential and therapeutic providers to meet the requirements of the Family First Prevention Services Act of 2018 in the Department for Community Based Services.

**(18) Victims Advocacy Programs:** Included in the above General Fund appropriation is an additional \$5,000,000 for the Children's Advocacy Centers, an additional \$3,500,000 for the Domestic Violence Shelters, and an additional \$1,500,000 for the Rape Crisis Centers in each fiscal year. These appropriations shall support direct service costs only, and no administrative overhead costs shall be paid with these appropriations. The Cabinet for Health and Family Services shall submit a report containing the number of participants served and the details of items expended from these funds to the Interim Joint Committee on Appropriations and Revenue by August 1 of each fiscal year.

**(19) Debt Service:** Included in the above General Fund appropriation is \$572,500 in fiscal year 2022-2023 and \$1,145,000 in fiscal year 2023-2024 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

**(20) Social Worker Alternative Work Program:** The General Assembly recognizes the vital role, responsibilities, and the resulting stress experienced by social workers in meeting the needs of their clients and the citizens of the Commonwealth. To address the retention of social workers, the Department for Community Based Services shall examine the feasibility of establishing an alternative work program for Social Service Worker classifications within the Department for Community Based Services. The alternative work program is intended to provide Social Service Worker classification personnel who have completed a minimum of four years of service, a period of respite from their regular duties while remaining employees of the Commonwealth. These activities may include service as a classroom substitute teacher, volunteerism, or other approved activities. The Department for Community Based Services shall provide recommendations to the Interim Joint Committee on Appropriations and Revenue by December 1, 2022, on the eligibility criteria for participating in the program, allowable activities, duration of the respite period, process for resumption of regular duties within the Department for Community Based Services, and other factors as deemed pertinent.

**(21) Family Recovery Court:** Included in the above General Fund appropriation is \$375,000 in each fiscal year to support the operations of the Jefferson County Family Recovery Court to assist families involved with the child welfare system.

**(22) Maryhurst:** Included in the above General Fund appropriation is \$1,350,000 in each fiscal year to provide a reimbursement rate increase for children in the 5 Specialized Program.

**(23) Buckhorn Children and Family Services:** Included in the above Federal Funds appropriation is \$1,000,000 in fiscal year 2022-2023 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 to support COVID-19 staffing issues.

**(24) Norton Children's Pediatric Protection Specialists:** Included in the above General Fund appropriation is \$6,000,000 in fiscal year 2022-2023 to support a team of doctors and specially trained staff to accept cases for children suspected to be victims of child abuse or neglect and at risk of harm. The funds shall be used to create a Center of Excellence in the Commonwealth.

**(25) Kentucky Alliance of Boys and Girls Clubs:** Included in the above Federal Funds appropriation from the Child Care Development Block Grant of the American Rescue Plan Act of 2021 is \$10,000,000 in fiscal year 2022-2023 for non-licensed providers caring for children ages six to 18 years of age to be used for one-time capital projects specific to each local club's needs.

**(26) Bellwood Presbyterian Home for Children:** Included in the above General Fund appropriation is a one-time allocation of \$325,000 in fiscal year 2023-2024 to the Bellwood Presbyterian Home for Children to support operations.

**(27) Children's Alliance:** Included in the above General Fund appropriation is a one-time allocation of \$1,000,000 in each fiscal year to the Children's Alliance to support operations.

**(28) Hospice Centers Support:** Included in the above General Fund appropriation is a one-time allocation of \$1,000,000 in each fiscal year which shall be distributed equally to all hospice centers across the Commonwealth to support operations.

**(29) Foster Care Independent Living:** Included in the above General Fund appropriation is \$2,000,000 in each fiscal year for independent living supports to children aging out of the foster care system.

**(30) Employee Child-Care Assistance Partnership:** Included in the above General Fund appropriation is \$15,000,000 in fiscal year 2023-2024 to the Employee Child-Care Assistance Partnership for matching contributions. There shall be a seven percent cap on administrative costs for the oversight of this program.

## 9. AGING AND INDEPENDENT LIVING

	2021-22	2022-23	2023-24
General Fund	694,700	47,783,800	47,903,500
Restricted Funds	19,900	2,883,400	3,013,600
Federal Funds	7,276,600	67,667,300	67,668,500
TOTAL	7,991,200	118,334,500	118,585,600

**(1) Local Match Requirements:** Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health and Family Services to provide essential services under KRS 205.455 and 205.460 shall provide local match equal to or greater than the amount in effect during fiscal year 2021-2022. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health and Family Services shall prescribe the procedures to certify the local match compliance.

**(2) Expansion of Senior Meals:** Included in the above Federal Funds appropriation is \$7,240,000 in fiscal year 2021-2022 and \$14,480,000 in each fiscal year of the 2022-2024 fiscal biennium from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 for the expansion of meals to senior citizens in the community.

**(3) Electronic Health Records System Implementation:** Any funds expended for the implementation of an electronic health records system within the Department for Public Health shall be coordinated as specified in Part I, G., 1., (4) of this Act.

## 10. HEALTH DATA AND ANALYTICS

	2021-22	2022-23	2023-24
General Fund	8,300	497,400	500,200
Restricted Funds	83,700	23,461,800	23,472,400
Federal Funds	7,500	18,106,000	18,110,500
TOTAL	99,500	42,065,200	42,083,100

## CHAPTER 199

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(1) **Kentucky Access Fund:** Notwithstanding KRS 304.17B-021, funds from this source are transferred to the Health Benefit Exchange in each fiscal year.

**TOTAL - HEALTH AND FAMILY SERVICES CABINET**

	2021-22	2022-23	2023-24
General Fund (Tobacco)	-0-	26,000,000	26,000,000
General Fund	16,993,400	3,021,746,400	3,516,649,000
Restricted Funds	8,569,600	2,274,259,700	2,076,792,300
Federal Funds	734,979,000	13,856,303,200	13,803,160,300
<b>TOTAL</b>	<b>760,542,000</b>	<b>19,178,309,300</b>	<b>19,422,601,600</b>

**H. JUSTICE AND PUBLIC SAFETY CABINET****Budget Units****1. JUSTICE ADMINISTRATION**

	2021-22	2022-23	2023-24
General Fund (Tobacco)	-0-	3,250,000	3,250,000
General Fund	636,600	49,307,800	48,296,700
Restricted Funds	-0-	5,265,800	5,595,000
Federal Funds	49,800	55,230,600	55,239,800
<b>TOTAL</b>	<b>686,400</b>	<b>113,054,200</b>	<b>112,381,500</b>

(1) **Operation UNITE:** (a) Notwithstanding KRS 48.005(4), included in the above Restricted Funds appropriation is \$1,500,000 in each fiscal year for the Operation UNITE Program from settlement funds resulting from the suit against Purdue Pharma, et al.. Included in the above General Fund appropriation is \$500,000 in each fiscal year for the Operation UNITE Program.

(b) For the periods ending June 30, 2022, and June 30, 2023, the Secretary of the Justice and Public Safety Cabinet, in coordination with the Chief Executive Officer of Operation UNITE, shall prepare reports detailing for what purpose and function the funds were utilized. The reports shall be submitted to the Interim Joint Committee on Appropriations and Revenue by September 1 of each fiscal year.

(2) **Office of Drug Control Policy:** Included in the above General Fund (Tobacco) appropriation is \$3,000,000 in each fiscal year for the Office of Drug Control Policy.

(3) **Access to Justice:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the Access to Justice Program.

(4) **Court Appointed Special Advocate Funding:** (a) Included in the above General Fund appropriation is \$3,000,000 in each fiscal year for grants to support Court Appointed Special Advocate (CASA) funding programs.

(b) No administrative costs shall be paid from the appropriation provided in paragraph (a) of this subsection.

(5) **Restorative Justice:** Included in the above General Fund (Tobacco) appropriation is \$250,000 in each fiscal year to support the Restorative Justice Program administered by the Volunteers of America.

(6) **Medical Examiner Personnel:** Included in the above General Fund appropriation is \$3,774,800 in each fiscal year to support additional positions within the Office of the Kentucky State Medical Examiner and provide salary increases for forensic autopsy technicians, medical examiners, and the Chief Medical Examiner.

(7) **Office of the Kentucky State Medical Examiner:** (a) Included in the above General Fund appropriation is \$6,349,700 in each fiscal year to support the operations of the Office of the Kentucky State Medical Examiner.

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Presiding Judge: HON. THOMAS DAWSON WINGATE (648243)

EXH : 000013 of 000013



Case #: **22-CI-00473**

Court: **CIRCUIT**

County: **FRANKLIN**

## CIVIL SUMMONS

*Plaintiff,* **COMMONWEALTH OF KENTUCKY VS. FRIEDLANDER,, ERIC,** *Defendant*

**TO: ERIC FRIEDLANDER,  
OFFICE OF THE ATTORNEY GENERAL  
700 CAPITOL AVENUE, SUITE 118  
FRANKFORT, KY 40601**

Telephone # : 5026965300

Email: SERVETHECOMMONWEALTH@KY.GOV

The Commonwealth of Kentucky to Defendant:  
**ERIC FRIEDLANDER,**

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

*Amy Feldman*

Franklin Circuit Clerk

Date: **6/14/2022**

### Proof of Service

This Summons was:

☐ Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

☐ Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title





Commonwealth of Kentucky  
Amy Feldman, Franklin Circuit Clerk

Case #: 22-CI-00473

Envelope #: 4714767

Received From: CHRISTOPHER THACKER

Account Of: CHRISTOPHER THACKER

Case Title: COMMONWEALTH OF KENTUCKY VS.  
FRIEDLANDER, ERIC  
Filed On 6/14/2022 1:23:56PM

Confirmation Number: commonwealth

#	Item Description	Amount
1	Court Facilities Fee	\$25.00
2	Court Facilities Fee	-\$25.00
3	Access To Justice Fee	-\$20.00
4	Access To Justice Fee	\$20.00
5	Money Collected For Others(Court Tech. Fee)	\$20.00
6	Money Collected For Others(Court Tech. Fee)	-\$20.00
7	Money Collected For Others(Attorney Tax Fee)	-\$5.00
8	Money Collected For Others(Attorney Tax Fee)	\$5.00
9	Library Fee	\$3.00
10	Library Fee	-\$3.00
11	Civil Filing Fee	\$150.00
12	Civil Filing Fee	-\$150.00
TOTAL:		\$0.00