

1 AN ACT relating to the Kentucky Court-Appointed Special Advocate Network.

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

3 ➡ Section 1. KRS 620.190 is amended to read as follows:

- 4 (1) There shall be established within each judicial district a citizen foster care review
 5 board to be appointed by the Chief District Judge or family court judge. The Chief
 6 District Judge or family court judge may authorize the creation of additional local
 7 citizen foster care review boards as needed.
- 8 (2) Each local citizen foster care review board shall consist of not less than three (3)
 9 members and shall be appointed according to the following guidelines:
- 10 (a) All members shall have an interest in foster care or child welfare;
- 11 (b) At least two (2) members of each local citizen foster care review board shall,
 12 as far as practicable, be chosen from among the following professions:
- 13 1. Law;~~;~~
- 14 2. Medicine;~~;~~
- 15 3. Psychology;~~;~~
- 16 4. Social work;~~;~~ and
- 17 5. Education;
- 18 (c) Each local citizen foster care review board shall, as far as practicable, include
 19 a foster parent;
- 20 (d) All members of each local citizen foster care review board shall, as far as
 21 practicable, be representative of the socioeconomic, racial, and ethnic
 22 composition of the area served;
- 23 (e) Employees of the ***Department for Community Based Services***~~cabinet~~ shall
 24 be prohibited from serving on the local citizen foster care review board;
- 25 (f) All appointed board members shall serve a term of three (3) years, except that
 26 if a vacancy occurs, a successor shall be appointed to serve the unexpired
 27 term. The term of each member shall expire on August 1 of the appropriate

1 year. Members may be reappointed and shall continue to serve until a
 2 successor is appointed; and

3 (g) All members shall be certified prior to appointment by the state citizen foster
 4 care review board or its designee. For the purposes of this section, "certified"
 5 means acknowledgment of completion of initial training approved by the state
 6 citizen foster care review board.

7 (3) Local citizen foster care review board members may be removed for
 8 nonparticipation, failure to meet training requirements, or other cause as determined
 9 by the state citizen foster care review board in compliance with its constitution and
 10 bylaws.

11 (4) Each local citizen foster care review board shall annually elect a chairman and vice
 12 chairman to serve in the absence of the chairman.

13 (5) Each local citizen foster care review board shall meet, at a place designated by the
 14 Chief District Judge or family court judge, as often as is deemed necessary to carry
 15 out the duties of the board. The local citizen foster care review board shall meet no
 16 less than four (4) times annually.

17 ➡ Section 2. KRS 620.500 is amended to read as follows:

18 As used in KRS 620.500 to 620.550, unless the context otherwise requires:

19 (1) "Association" means the state Court-Appointed Special Advocate Association
 20 established in KRS 620.530, **also known as the Kentucky CASA Network;**

21 (2) "Court" means family court or, if there is no family court in the county where the
 22 CASA program is located, then District Court;

23 (3) "Court-appointed special advocate case" and "CASA case" mean a child or group of
 24 siblings who are within the jurisdiction of the court as a result of abuse, neglect, or
 25 dependency proceedings and for whom the court has appointed and the program
 26 director has assigned a CASA volunteer;

27 (4) "Court-appointed special advocate program" and "CASA program" mean a program

1 by which trained community volunteers are provided to the court for appointment to
 2 represent the best interests of children who have come into the court system as a
 3 result of dependency, abuse, or neglect;

4 (5) "Court-appointed special advocate volunteer" and "CASA volunteer" mean a person
 5 who completes training through and is supervised by a CASA program and
 6 appointed by a judge to represent the best interests of dependent, abused, and
 7 neglected children in court;

8 (6) "Local board" means the local board of directors appointed or selected in
 9 accordance with KRS 620.505 to govern local CASA programs;

10 (7) "Program director" means the director of each local CASA program selected in
 11 accordance with KRS 620.505;

12 (8) "State board" means the state board of directors elected in accordance with KRS
 13 620.530; and

14 (9) "State director" means the director of the state association provided for in KRS
 15 620.537.

16 ➡ Section 3. KRS 620.055 is amended to read as follows:

17 (1) An external child fatality and near fatality review panel is hereby created and
 18 established for the purpose of conducting comprehensive reviews of child fatalities
 19 and near fatalities, reported to the Cabinet for Health and Family Services,
 20 suspected to be a result of abuse or neglect. The panel shall be attached to the
 21 Justice and Public Safety Cabinet for staff and administrative purposes.

22 (2) The external child fatality and near fatality review panel shall be composed of the
 23 following five (5) ex officio nonvoting members and seventeen (17) voting
 24 members:

25 (a) Two (2) members of the Kentucky General Assembly, one (1) appointed by
 26 the President of the Senate and one (1) appointed by the Speaker of the House
 27 of Representatives, who shall be ex officio nonvoting members;

- 1 (b) The commissioner of the Department for Community Based Services, who
2 shall be an ex officio nonvoting member;
- 3 (c) The commissioner of the Department for Public Health, who shall be an ex
4 officio nonvoting member;
- 5 (d) A family court judge selected by the Chief Justice of the Kentucky Supreme
6 Court, who shall be an ex officio nonvoting member~~[members]~~;
- 7 (e) A pediatrician from the University of Kentucky's Department of Pediatrics
8 who is licensed and experienced in forensic medicine relating to child abuse
9 and neglect to be selected by the Attorney General from a list of three (3)
10 names provided by the dean of the University of Kentucky School of
11 Medicine;
- 12 (f) A pediatrician from the University of Louisville's Department of Pediatrics
13 who is licensed and experienced in forensic medicine relating to child abuse
14 and neglect to be selected by the Attorney General from a list of three (3)
15 names provided by the dean of the University of Louisville School of
16 Medicine;
- 17 (g) The state medical examiner or designee;
- 18 (h) A court-appointed special advocate (CASA) program director to be selected
19 by the Attorney General from a list of three (3) names provided by the
20 Kentucky CASA Network~~[Association]~~;
- 21 (i) A peace officer with experience investigating child abuse and neglect
22 fatalities and near fatalities to be selected by the Attorney General from a list
23 of three (3) names provided by the commissioner of the Kentucky State
24 Police;
- 25 (j) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by
26 the Attorney General from a list of three (3) names provided by the president
27 of the Prevent Child Abuse Kentucky, Inc. board of directors;

- 1 (k) A practicing local prosecutor to be selected by the Attorney General;
- 2 (l) The executive director of the Kentucky Domestic Violence Association or the
- 3 executive director's designee;
- 4 (m) The chairperson of the State Child Fatality Review Team established in
- 5 accordance with KRS 211.684 or the chairperson's designee;
- 6 (n) A practicing social work clinician to be selected by the Attorney General from
- 7 a list of three (3) names provided by the Board of Social Work;
- 8 (o) A practicing addiction counselor to be selected by the Attorney General from
- 9 a list of three (3) names provided by the Kentucky Association of Addiction
- 10 Professionals;
- 11 (p) A representative from the family resource and youth service centers to be
- 12 selected by the Attorney General from a list of three (3) names submitted by
- 13 the Cabinet for Health and Family Services;
- 14 (q) A representative of a community mental health center to be selected by the
- 15 Attorney General from a list of three (3) names provided by the Kentucky
- 16 Association of Regional Mental Health and Mental Retardation Programs,
- 17 Inc.;
- 18 (r) A member of a citizen foster care review board selected by the Chief Justice
- 19 of the Kentucky Supreme Court;
- 20 (s) An at-large representative who shall serve as chairperson to be selected by the
- 21 Secretary of State;
- 22 (t) The president of the Kentucky Coroners Association; and
- 23 (u) A practicing medication-assisted treatment provider to be selected by the
- 24 Attorney General from a list of three (3) names provided by the Kentucky
- 25 Board of Medical Licensure.
- 26 (3) (a) ~~By August 1, 2013,~~ The appointing authority or the appointing authorities,
- 27 as the case may be, shall have appointed panel members. Initial terms of

1 members, other than those serving ex officio, shall be staggered to provide
 2 continuity. Initial appointments shall be: five (5) members for terms of one (1)
 3 year, five (5) members for terms of two (2) years, and five (5) members for
 4 terms of three (3) years, these terms to expire, in each instance, on June 30
 5 and thereafter until a successor is appointed and accepts appointment.

6 (b) Upon the expiration of these initial staggered terms, successors shall be
 7 appointed by the respective appointing authorities~~[,]~~ for terms of two (2)
 8 years~~[,]~~ and until successors are appointed and accept their appointments.
 9 Members shall be eligible for reappointment. Vacancies in the membership of
 10 the panel shall be filled in the same manner as the original appointments.

11 (c) At any time, a panel member shall recuse himself or herself from the review
 12 of a case if the panel member believes he or she has a personal or private
 13 conflict of interest.

14 (d) If a voting panel member is absent from two (2) or more consecutive,
 15 regularly scheduled meetings, the member shall be considered to have
 16 resigned and shall be replaced with a new member in the same manner as the
 17 original appointment.

18 (e) If a voting panel member is proven to have violated subsection (13) of this
 19 section, the member shall be removed from the panel, and the member shall
 20 be replaced with a new member in the same manner as the original
 21 appointment.

22 (4) The panel shall meet at least quarterly and may meet upon the call of the
 23 chairperson of the panel.

24 (5) Members of the panel shall receive no compensation for their duties related to the
 25 panel, but may be reimbursed for expenses incurred in accordance with state
 26 guidelines and administrative regulations.

27 (6) Each panel member shall be provided copies of all information set out in this

subsection, including but not limited to records and information, upon request, to be gathered, unredacted, and submitted to the panel within thirty (30) days by the Cabinet for Health and Family Services from the Department for Community Based Services or any agency, organization, or entity involved with a child subject to a fatality or near fatality:

(a) Cabinet for Health and Family Services records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons supervising the child at the time of the incident that include all records and documentation set out in this paragraph:

1. All prior and ongoing investigations, services, or contacts;
2. ~~Any and~~ All records of services to the family provided by agencies or individuals contracted by the Cabinet for Health and Family Services; and
3. All documentation of actions taken as a result of child fatality internal reviews conducted pursuant to KRS 620.050(12)(b);

(b) Licensing reports from the Cabinet for Health and Family Services, Office of Inspector General, if an incident occurred in a licensed facility;

(c) All available records regarding protective services provided out of state;

(d) All records of services provided by the Department for Juvenile Justice regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident;

(e) Autopsy reports;

(f) Emergency medical service, fire department, law enforcement, coroner, and other first responder reports, including but not limited to photos and interviews with family members and witnesses;

(g) Medical records regarding the deceased or injured child, including but not limited to all records and documentation set out in this paragraph:

- 1 1. Primary care records, including progress notes; developmental
- 2 milestones; growth charts that include head circumference; all
- 3 laboratory and X-ray requests and results; and birth record that includes
- 4 record of delivery type, complications, and initial physical exam of
- 5 baby;
- 6 2. In-home provider care notes about observations of the family, bonding,
- 7 others in home, and concerns;
- 8 3. Hospitalization and emergency department records;
- 9 4. Dental records;
- 10 5. Specialist records; and
- 11 6. All photographs of injuries of the child that are available;
- 12 (h) Educational records of the deceased or injured child, or other children residing
- 13 in the home where the incident occurred, including but not limited to the
- 14 records and documents set out in this paragraph:
- 15 1. Attendance records;
- 16 2. Special education services;
- 17 3. School-based health records; and
- 18 4. Documentation of any interaction and services provided to the children
- 19 and family.
- 20 The release of educational records shall comply~~be in compliance~~ with the
- 21 Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its
- 22 implementing regulations;
- 23 (i) Head Start records or records from any other child care or early child care
- 24 provider;
- 25 (j) Records of any Family, Circuit, or District Court involvement with the
- 26 deceased or injured child and his or her caregivers, residents of the home and
- 27 persons involved with the child at the time of the incident that include but are

- 1 not limited to the juvenile and family court records and orders set out in this
- 2 paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
- 3 1. Petitions;
- 4 2. Court reports by the Department for Community Based Services,
- 5 guardian ad litem, court-appointed special advocate, and the Citizen
- 6 Foster Care Review Board;
- 7 3. All orders of the court, including temporary, dispositional, or
- 8 adjudicatory; and
- 9 4. Documentation of annual or any other review by the court;
- 10 (k) Home visit records from the Department for Public Health or other services;
- 11 (l) All information on prior allegations of abuse or neglect and deaths of children
- 12 of adults residing in the household;
- 13 (m) All law enforcement records and documentation regarding the deceased or
- 14 injured child and his or her caregivers, residents of the home, and persons
- 15 involved with the child at the time of the incident; and
- 16 (n) Mental health records regarding the deceased or injured child and his or her
- 17 caregivers, residents of the home, and persons involved with the child at the
- 18 time of the incident.
- 19 (7) The panel may seek the advice of experts, such as persons specializing in the fields
- 20 of psychiatric and forensic medicine, nursing, psychology, social work, education,
- 21 law enforcement, family law, or other related fields, if the facts of a case warrant
- 22 additional expertise.
- 23 (8) The panel shall post updates after each meeting to the website of the Justice and
- 24 Public Safety Cabinet regarding case reviews, findings, and recommendations.
- 25 (9) The panel chairperson, or other requested persons, shall report a summary of the
- 26 panel's discussions and proposed or actual recommendations to the Interim Joint
- 27 Committee on Families and Children of the Kentucky General Assembly monthly

1 or at the request of a committee co-chair. The goal of the committee shall be to
 2 ensure impartiality regarding the operations of the panel during its review process.

3 (10) (a) The panel shall publish an annual report by February 1 of each year consisting
 4 of case reviews, findings, and recommendations for system and process
 5 improvements to help prevent child fatalities and near fatalities that are due to
 6 abuse and neglect. The report shall be submitted to the Governor, the
 7 secretary of the Cabinet for Health and Family Services, the Chief Justice of
 8 the Supreme Court, the Attorney General, the State Child Abuse and Neglect
 9 Prevention Board established pursuant to KRS 15.905, and the director of the
 10 Legislative Research Commission for distribution to the Interim Joint
 11 Committee on Families and Children~~[-]~~ and the Interim Joint Committee on
 12 Judiciary.

13 (b) The panel shall determine which agency is responsible for implementing each
 14 recommendation, and shall forward each recommendation in writing to the
 15 appropriate agency.

16 (c) Any agency that receives a recommendation from the panel shall, within
 17 ninety (90) days of receipt:

- 18 1. Respond to the panel with a written notice of intent to implement the
 19 recommendation, an explanation of how the recommendation will be
 20 implemented, and an approximate time frame of implementation; or
- 21 2. Respond to the panel with a written notice that the agency does not
 22 intend to implement the recommendation, and a detailed explanation of
 23 why the recommendation cannot be implemented.

24 (11) (a) Information and record copies that are confidential under state or federal law
 25 and are provided to the external child fatality and near fatality review panel by
 26 the Cabinet for Health and Family Services, the Department for Community
 27 Based Services, or any agency, organization, or entity for review shall not

1 become the information and records of the panel and shall not lose their
2 confidentiality by virtue of the panel's access to the information and records.

3 **(b)** The original information and records used to generate information and record
4 copies provided to the panel in accordance with subsection (6) of this section
5 shall be maintained by the appropriate agency in accordance with state and
6 federal law and shall be subject to the Kentucky Open Records Act, KRS
7 61.870 to 61.884.

8 **(c)** All open records requests shall be made to the appropriate agency, not to the
9 external child fatality and near fatality review panel or any of the panel
10 members.

11 **(d)** Information and record copies provided to the panel for review shall be
12 exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884.

13 **(e)** At the conclusion of the panel's examination, all copies of information and
14 records provided to the panel involving an individual case shall be destroyed
15 by the Justice and Public Safety Cabinet.

16 (12) Notwithstanding any provision of law to the contrary, the portions of the external
17 child fatality and near fatality review panel meetings during which an individual
18 child fatality or near fatality case is reviewed or discussed by panel members may
19 be a closed session and subject to the provisions of KRS 61.815(1) and shall only
20 occur following the conclusion of an open session. At the conclusion of the closed
21 session, the panel shall immediately convene an open session and give a summary
22 of what occurred during the closed session.

23 (13) Each member of the external child fatality and near fatality review panel, any
24 person attending a closed panel session, and any person presenting information or
25 records on an individual child fatality or near fatality shall not release information
26 or records not available under the Kentucky Open Records Act, KRS 61.870 to
27 61.884, to the public.

- 1 (14) A member of the external child fatality and near fatality review panel shall not be
 2 prohibited from making a good-faith~~[good faith]~~ report to any state or federal
 3 agency of any information or issue that the panel member believes should be
 4 reported or disclosed~~[in an effort]~~ to facilitate effectiveness and transparency in
 5 Kentucky's child protective services.
- 6 (15) A member of the external child fatality and near fatality review panel shall not be
 7 held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as
 8 a result of any action taken or omitted in the performance of the member's duties
 9 pursuant to this section and KRS 620.050, except for violations of subsection (11),
 10 (12), or (13) of this section.
- 11 (16) The proceedings, records, opinions, and deliberations of the external child fatality
 12 and near fatality review panel shall be privileged and shall not be subject to
 13 discovery, subpoena, or introduction into evidence in any civil or criminal actions
 14 in any manner that would directly or indirectly identify specific persons or cases
 15 reviewed by the panel. Nothing in this subsection shall be construed to restrict or
 16 limit the right to discover or use in any civil action any evidence that is
 17 discoverable independent of the proceedings of the panel.
- 18 (17) The Legislative Oversight and Investigations Committee of the Kentucky General
 19 Assembly shall conduct an annual evaluation of the external child fatality and near
 20 fatality review panel established pursuant to this section to monitor the operations,
 21 procedures, and recommendations of the panel and shall report its findings to the
 22 General Assembly.
- 23 ➡ Section 4. KRS 620.505 is amended to read as follows:
- 24 (1) For the purpose of providing an independent, efficient, and thorough representation
 25 for children who enter the court system as a result of dependency, abuse, or neglect,
 26 there may be established a court-appointed special advocate program by the chief
 27 judge of family court or, if none, then by the Chief District Judge.

1 (2) Local CASA programs shall be governed by a local board of directors. For new
 2 CASA programs, the board shall initially be appointed by the chief judge of family
 3 court or, if none, then by the Chief District Judge. Members shall be selected by the
 4 existing board members thereafter. Each board shall include at least twelve
 5 (12)~~fifteen (15)~~ members. Each board member shall have a demonstrated interest
 6 in child welfare issues and commitment to the purpose and role of the court-
 7 appointed special advocate volunteers. Cabinet employees shall not be eligible to
 8 serve as officers of the board. Members shall, as far as practicable, be representative
 9 of the racial and ethnic composition of the area served by the CASA program. The
 10 board shall:

- 11 (a) Determine major personnel, organization, fiscal, and program policies,
 12 including~~[,]~~ but not limited to~~[,]~~ the following:
- 13 1. Measures to be taken to safeguard the CASA program's information
 14 relating to children, their families, and the CASA volunteers;
 - 15 2. The procedures for the recruitment, screening, training, and supervision
 16 of CASA volunteers; and
 - 17 3. The procedure for and circumstances warranting dismissal of a CASA
 18 volunteer from the CASA program;
- 19 (b) Determine overall plans and priorities for the CASA program, including
 20 provisions for evaluating progress against performance;
- 21 (c) Approve the program budget;
- 22 (d) Enforce compliance with all conditions of all grants contracts;
- 23 (e) Determine rules and procedures for the governing board;
- 24 (f) Select the officers and the executive committee, if any, of the governing
 25 board;
- 26 (g) Meet at least four (4) times each year;
- 27 (h) Submit an annual report to the association in the uniform manner required

1 which shall include, but need not be limited to, the following information:

- 2 1. Number of CASA volunteers in the program;
- 3 2. Number of program staff;
- 4 3. Number of children served;
- 5 4. Number of volunteers receiving initial training;
- 6 5. Number of and topics for in-service training;
- 7 6. The type of source of the funds received and the amount received from
- 8 each type of source during the previous fiscal year;
- 9 7. The expenditures during the previous year; and
- 10 8. Other information as deemed appropriate.

11 (3) Local CASA programs shall comply with the ~~[National CASA Association and~~
 12 ~~]Kentucky CASA Network[Association]~~ Standards for Programs. Local programs
 13 shall ensure that CASA volunteers are adequately supervised by providing at least
 14 one (1) supervisory staff person for every thirty (30) CASA volunteers that have
 15 been appointed by the court and assigned by the program director. Each local
 16 CASA program shall be managed by a qualified director whose service may be
 17 voluntary or who may be paid a salary. The program director's duties shall include:

- 18 (a) Administration of the CASA program as directed by the local and state
- 19 boards;
- 20 (b) Recruitment, screening, training, and supervision of CASA volunteers and
- 21 other program staff;
- 22 (c) Facilitation of the performance of the court-appointed special advocates'
- 23 duties; and
- 24 (d) Ensuring that the security measures established by the local and state boards
- 25 for safeguarding the information relating to children, their families, and the
- 26 CASA volunteers are maintained.

27 (4) CASA volunteers shall, as far as practicable, be representative of the

1 socioeconomic, racial, and ethnic composition of the area served.

2 (5) CASA volunteers may be removed by the court for nonparticipation or other cause
3 or by the program director pursuant to subsection (2) of this section.

4 (6) All written court-appointed special advocate reports submitted pursuant to KRS
5 620.525 shall become part of the cabinet's record of the child.

6 (7) Employees of the *Department for Community Based Services*~~[cabinet]~~ shall not
7 become volunteers or employees of the court-appointed special advocate program.

8 (8) Each CASA volunteer, program director, and other program staff shall take an oath,
9 administered by a member of the Court of Justice, to keep confidential all
10 information related to the appointed case except in conferring with or reports to the
11 court, parties to the case, the cabinet, the Citizen Foster Care Review Board, others
12 designated by the court, and as provided by law.

13 (9) CASA volunteers shall be appointed by the presiding judge to represent the best
14 interest of the child, subject to judicial discretion, and only after confirmation from
15 the program director that the CASA volunteer has been properly screened and
16 trained.

17 ➡ Section 5. KRS 620.537 is amended to read as follows:

18 If the state board employs a full-time staff person to serve as the director of the
19 association, then:

20 (1) The state director shall be a person who by a combination of education, professional
21 qualification, training, and experience is qualified to perform the duties of this
22 position. The state director shall be of good moral character with at least two (2)
23 years of experience working in a position managing a human services program and
24 who has received a:

25 (a) Master's degree in social work, sociology, psychology, guidance and
26 counseling, education, criminal justice, or other human service field; or

27 (b) Baccalaureate degree in social work, sociology, psychology, guidance and

1 counseling, education, criminal justice, or other human service field with, in
 2 addition to the work experience required in this subsection, at least two (2)
 3 more years of experience working in the human services field.

4 (2) The duties of the state director shall be:

- 5 (a) To manage the state court-appointed special advocate office, including staff;
- 6 (b) To coordinate the activities of the association;
- 7 (c) To monitor the policies and practices of local CASA programs for compliance
 8 with state laws, *national standards for CASA programs*~~[National CASA~~
 9 ~~Association Standards for Programs]~~, and *standards and* reporting
 10 requirements established by the state association; to assist local CASA
 11 programs in efforts to achieve compliance; and to report to the state
 12 association the status of compliance by local CASA programs;
- 13 (d) Upon request of local CASA programs, to provide technical assistance to
 14 local CASA programs;
- 15 (e) To provide technical assistance and support to chief judges of family courts,
 16 Chief District Judges, and others in development of new local CASA
 17 programs;
- 18 (f) To coordinate a statewide public awareness campaign for generating interest
 19 in developing new CASA programs, recruiting volunteers, and informing the
 20 public of the issues concerning child abuse and neglect; and
- 21 (g) Other duties as directed by the association.