

1 AN ACT relating to legislative oversight and declaring an emergency.

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

3 **→** Section 1. KRS 6.900 is amended to read as follows:

4 As used in KRS 6.900~~[6.905]~~ to 6.935:

- 5 (1) "Committee" means the Legislative Oversight~~[Program Review]~~ and Investigations
6 Committee;
- 7 (2) "Investigation" means an inquiry into possible acts of impropriety in the use of
8 public funds or performance of public duty by~~[an elected or appointed state official~~
9 ~~or a state employee or contractor]~~ a person;
- 10 (3) **"Person" means:**
- 11 **(a) A current or former elected or appointed state official;**
- 12 **(b) A state agency;**
- 13 **(c) A current or former state employee;**
- 14 **(d) A contractor who has responded to a request for proposal by a state agency,**
15 **including those offered under KRS Chapter 45A;**
- 16 **(e) An individual or entity responding to a request for contract by a state**
17 **agency, including a personal service contract; or**
- 18 **(f) Any private individual or entity doing business with anyone listed in**
19 **paragraphs (a) to (e) of this subsection;**
- 20 **(4)** "Review" means a noninvestigative study of the operation, accomplishments,
21 management, or activities of an agency or program and includes procedures such as
22 fiscal audit, program/performance evaluation, program audit, management audit,
23 policy analysis, or other related terms;
- 24 ~~(5)~~~~(4)~~ "Study" means any investigation or review initiated or undertaken by the
25 committee; and
- 26 ~~(6)~~~~(5)~~ "State agency" means:
- 27 (a) Any entity, including multijurisdictional organization or interagency entities,

1 created by the Constitution of Kentucky, by an act of the General Assembly,
 2 or by any of the branches of state government or any of its subdivisions,
 3 instrumentalities, or affiliated organizations, or by any employee or official
 4 acting in his official capacity;

5 (b) Any entity which receives any part of its funding or resources from state tax
 6 dollars, from funds or resources entrusted to the Commonwealth from other
 7 sources, or from fines, fees, licensing, or penalties authorized by state statute
 8 or administrative regulation;

9 (c) Any entity which is federally funded and for which the Commonwealth of
 10 Kentucky is responsible for the oversight or expenditures of the federal
 11 resources;

12 (d) That portion of a public or private entity which receives or has received
 13 resources, such as funds, equipment, property, supplies, or services, directly or
 14 indirectly from the Commonwealth of Kentucky; and

15 (e) That portion of a public or private entity related to the delivery of services to
 16 or for the Commonwealth of Kentucky or an entity of the Commonwealth as
 17 defined in paragraph (a), (b), (c), or (d) of this subsection.

18 ➔ Section 2. KRS 6.905 is amended to read as follows:

19 (1) There is created a Legislative ***Oversight***~~[Program—Review]~~ and Investigations
 20 Committee which shall be a permanent standing committee of the General
 21 Assembly, consisting of eight (8) members of the Senate, six (6) of whom shall be
 22 appointed by the President and two (2) of whom shall be appointed by the Minority
 23 Leader of the Senate, and eight (8) members of the House of Representatives, six
 24 (6) of whom shall be appointed by the Speaker and two (2) of whom shall be
 25 appointed by the Minority Leader of the House of Representatives. At least one (1)
 26 appointee by each appointive authority shall be a member of the Senate or House
 27 Standing Committee on Appropriations and Revenue.~~[The appointments shall be~~

1 made within seven (7) legislative days of the end of each regular session of the
 2 General Assembly held in even numbered years, and the members so appointed
 3 shall serve for a term of two (2) years coextensive with the biennium in which the
 4 appointment is made. Vacancies shall be filled within sixty (60) days of occurrence
 5 in the same manner as the original appointments, and for the balance of the term of
 6 the vacated member.]

7 (2) The **President and the Speaker shall each appoint a** [members appointed from each
 8 chamber shall elect one (1) member from their chamber to serve as] co-chair **and**
 9 **vice chair from their respective bodies.** [Co chairs shall be elected at the first
 10 meeting of the committee following the end of the regular session in even-
 11 numbered years.] The co-chairs shall have joint responsibilities for committee
 12 meeting agendas and presiding at committee meetings. On an alternating basis, each
 13 co-chair shall have the first option to set the monthly meeting date. A monthly
 14 meeting may be canceled by agreement of both co-chairs. A majority of the entire
 15 membership of the Legislative **Oversight** [Program Review] and Investigations
 16 Committee shall constitute a quorum, and all actions of the committee shall be by
 17 vote of a majority of its entire membership.

18 (3) [~~When a study is instituted, the committee shall request that the Legislative~~
 19 ~~Research Commission appoint the co-chairs and two (2) minority members from the~~
 20 ~~interim joint committee of relevant jurisdiction to serve as nonvoting ex-officio~~
 21 ~~members of the committee in activities related to the relevant study. One (1) of the~~
 22 ~~minority members shall be a member of the House of Representatives designated by~~
 23 ~~the House Minority Floor Leader and the other minority member shall be a member~~
 24 ~~of the Senate designated by the Senate Minority Floor Leader.~~

25 (4)]Each[regular and nonvoting ex-officio] member of the committee shall receive the
 26 same travel allowances and compensation for attending interim meetings of the
 27 committee as are received by members of subcommittees of the Legislative

1 Research Commission under KRS 7.090(3).

2 → Section 3. KRS 6.910 is amended to read as follows:

3 [~~The committee shall have the power and duty to:~~]

4 (1) **The purpose of the Legislative Oversight and Investigations Committee shall be**
 5 **to serve as the main investigative committee in the General Assembly. The**
 6 **committee shall have the authority to investigate the subjects within the**
 7 **committee's legislative jurisdiction and within the jurisdiction of other standing**
 8 **or statutory committees of the General Assembly.**

9 (2) **The committee shall have the discretionary power to:**

10 (a) Make studies of the operations of state agencies to ascertain that sums
 11 appropriated have been, or are being, expended for the purposes for which
 12 such appropriations were made and to evaluate the effectiveness of programs
 13 in accomplishing legislative intent;

14 (b)~~(2)~~ Study on a continuing basis the operations, practices, and duties of state
 15 agencies, as they relate to efficiency in the utilization of space, personnel,
 16 equipment, and facilities;

17 (c)~~(3)~~ Make such special studies and reports of the operations and functions of
 18 state agencies as it deems appropriate and as may be requested by the General
 19 Assembly;

20 (d)~~(4)~~ Make such reports on its findings and recommendations at such time and
 21 in such manner as the committee deems proper, submitting such reports to the
 22 agencies concerned, to the Governor and to the General Assembly. Such
 23 reports shall relate to the following matters:

24 1.~~(a)~~ Whether any state agency is carrying out only those activities or
 25 programs authorized by legal or administrative action; or

26 2.~~(b)~~ Whether the programs and activities of a state agency, or a
 27 particular program or activity is being operated efficiently, effectively,

1 or in accordance with legislative or administrative intent; or

2 ~~3.[(c)]~~ Whether there is a need for change in any authorized activity or
3 program of a state agency; or

4 ~~4.[(d)]~~ Whether any reorganization of a state agency, or group of state
5 agencies, is needed or justified to accomplish the results of programs or
6 activities; or

7 ~~5.[(e)]~~ Any combination of the purposes specified in this or any other
8 section of KRS ~~6.900~~~~[6.905]~~ to 6.935; ~~[-]~~

9 ~~(e) [(5)]~~ **Treat** information obtained or prepared by the committee or its staff ~~[-]~~
10 ~~shall be treated~~ as confidential working papers subject to release according to
11 the operating rules and procedures adopted by the committee, **and such**
12 **information shall be exempt from the open records requirements contained**
13 **in KRS 61.870 to 61.884.** The committee may close certain ~~[- planning]~~
14 meetings and project briefings to protect research **pursuant to KRS 61.805 to**
15 **61.850,** ~~[- and]~~ to allow the exchange of confidential materials, **and**
16 **information, to protect the identity of witnesses, when necessary, and to**
17 **protect the integrity of the study.** Any information protected by ~~[-]~~
18 ~~confidentiality agreements or~~ federal, ~~[- state, or local]~~ laws shall not be
19 subject to public release; ~~[-]~~

20 ~~(f) [(6)]~~ Consider and act on requests for studies submitted by legislators,
21 legislative committees, elected officials of state government, state cabinet
22 secretaries, and department and agency heads. Requests shall be submitted in
23 writing and shall state reasons to support the request. The decision of the
24 committee to grant or deny such a request shall be final;

25 **(g) Review any conditions or circumstances that may indicate the necessity or**
26 **desirability of enacting new or additional legislation addressing subjects**
27 **within its jurisdiction or the jurisdiction of any standing or statutory**

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committee;

(h) Evaluate the effect of laws enacted to reorganize any branch of state government;

~~(i)(7)~~ Conduct studies directed by joint resolution of the General Assembly;

~~(j)(8)~~ When the General Assembly is not in session, conduct studies:

~~1.(a)~~ Initiated by joint agreement~~[a majority vote]~~ of the co-chairs~~[committee]; [or]~~

~~2.(b)~~ Initiated by a majority vote of the committee; or

~~3.~~ Requested by the Legislative Research Commission or an interim joint committee thereof. In the event two (2) or more studies are requested, the priority among them shall be determined by the committee;~~[-]~~

~~(k)(9)~~ After~~Before~~ voting to undertake a review under~~[subsection]~~ paragraph (j)(1.)~~(8)(a)~~ of this subsection~~[section]~~, the committee shall notify the chair~~[chairman]~~ of the committee of relevant jurisdiction~~[for his comment]; [-]~~

~~(l)(10)~~ To determine if a witness should be prosecuted for perjury by testifying falsely before the committee, and to institute appropriate penal proceedings as provided by law. Any finding under this paragraph shall require a majority vote of the committee; and~~[The committee shall notify the Legislative Research Commission periodically of the committee's activities, and at any time a new study is to commence. Any study conducted by the committee shall be deemed within its lawful duties and jurisdiction unless notified to the contrary by the Legislative Research Commission.]~~

(m) Conduct a study of any matter without regard to jurisdiction of the matter being conferred to another statutory or standing committee.

(3) Each witness who appears before the committee by its subpoena or order, other than an officer or employee of the state, shall be entitled to the fees and mileage

1 provided for witnesses in civil cases in Circuit Court, which shall be audited and
 2 paid upon the presentation of proper vouchers sworn to by such witnesses and
 3 approved by the chair of the committee.

4 (4) The committee may issue subpoenas to compel the attendance and testimony of
 5 witnesses or the production of documents, books, papers, or other records.
 6 Subpoenas may be issued by agreement of the co-chairs or by a vote of the
 7 majority of the members of the committee and shall be served in the same
 8 manner as subpoenas for witnesses in civil cases. All provisions of law relative to
 9 subpoenas issued in such cases, including compensation of witnesses, shall apply
 10 to subpoenas issued by the committee.

11 → Section 4. KRS 6.922 is amended to read as follows:

12 Beginning in 2014 the Legislative Oversight~~[Program Review]~~ and Investigations
 13 Committee of the Kentucky General Assembly shall conduct an annual evaluation of the
 14 external child fatality and near fatality review panel established pursuant to KRS 620.055
 15 to monitor the operations, procedures, and recommendations of the panel and shall report
 16 its findings to the General Assembly.

17 → Section 5. KRS 6.925 is amended to read as follows:

18 When making a study, the committee may require that testimony be given under oath,
 19 which may be administered by the chairman or by any person authorized by law to
 20 administer oaths. The committee may require that such testimony or any proceedings of
 21 the committee be recorded by an official court reporter or other competent person, under
 22 oath. The transcript, when written, certified and approved by the recorder and transcriber
 23 as being the direct transcript of the testimony, or proceedings, shall be prima facie a
 24 correct statement of said testimony or proceedings provided that the recorder and
 25 transcriber's signature to such certificate is duly acknowledged by him before a notary
 26 public or a judicial official of the Commonwealth.

27 → Section 6. KRS 6.930 is amended to read as follows:

- 1 (1) ~~[In any instance in which a study conducted by or for]~~The committee may~~[cite~~
 2 ~~inadequate operating or administrative systems controls or procedures, inaccuracies,~~
 3 ~~waste, extravagance, unauthorized or unintended activities or programs, or other~~
 4 ~~deficiencies, the committee shall]~~ report its findings~~[such deficiencies]~~ and~~[its]~~
 5 recommendations~~[for their correction]~~ to the head of the state agency or program
 6 and the secretary of the cabinet to which the report pertains.
- 7 (2) The secretary of the cabinet or~~[and]~~ the head of the state agency or program to
 8 which the report pertains shall give affirmative consideration to the report within
 9 sixty (60) days of the adoption of the report by:
- 10 (a) Adopting the committee's recommendations and reporting their actions to the
 11 committee; or
- 12 (b) Otherwise correcting the deficiency and reporting their actions, and the
 13 reasons for not adopting the committee's recommendations, to the committee.
- 14 (3) If no corrective action is taken by the secretary of the cabinet or by the head of the
 15 state agency or program in response to a committee report under subsections (1) and
 16 (2) of this section, or if the committee deems the corrective action taken to be
 17 unsuitable, the committee may~~[shall]~~ report the matter to the General Assembly,
 18 together with its recommendations.
- 19 (4) The committee may~~[shall]~~ report the results of each of its studies, including the
 20 committee's recommendations for any further action, to the General Assembly.
- 21 **(5) The committee may report any matter under its study to any law enforcement**
 22 **agency, the Auditor of Public Accounts, or any other state official having**
 23 **jurisdiction over the matter for investigation. If a matter is referred under this**
 24 **subsection, the law enforcement agency, Auditor of Public Accounts, or other**
 25 **state official with jurisdiction over the matter shall make a report to the**
 26 **committee with its findings within thirty (30) days of completion of the**
 27 **investigation.**

1 ➔ Section 7. KRS 6.935 is amended to read as follows:

2 (1) The Attorney General, or an assistant attorney general designated by him, the
3 Auditor of Public Accounts, cabinet secretaries, and the heads of other state
4 agencies shall assist the Legislative ~~Program Review~~ Oversight and Investigations
5 Committee in whatever manner the ~~committee deems~~ co-chairs deem that these
6 officials can be helpful.

7 (2) Staffing and support services shall be provided to the Legislative
8 ~~Program Review~~ Oversight and Investigations Committee pursuant to KRS 7.090.

9 ➔ SECTION 8. A NEW SECTION OF KRS 6.900 TO 6.935 IS CREATED TO
10 READ AS FOLLOWS:

11 (1) Any witness who fails to comply with a subpoena issued pursuant to Section 3 of
12 this Act may be fined by the committee an amount not to exceed one hundred
13 dollars (\$100) per day, up to a maximum total fine of one thousand dollars
14 (\$1,000). The committee shall have the authority to enforce compliance with
15 subpoenas, including holding the noncompliant witness in contempt of the
16 General Assembly which includes any action that could be taken by a Circuit
17 Court to enforce compliance with a subpoena issued pursuant to the authority of
18 a Kentucky Court of Justice. Upon petition by the committee, any Circuit Court
19 within the jurisdiction of which any inquiry is being carried on or having
20 jurisdiction over the witness may, in case of refusal to obey a subpoena or order
21 of the committee, issue an order requiring compliance. Any failure to obey the
22 order of the court may be punished by the court as contempt thereof in addition
23 to any other duly authorized punishment.

24 (2) The Circuit Court shall render a final judgement within forty-five (45) days from
25 the date:

26 (a) When the petition was filed by the committee; or

27 (b) Of the commencement of any action or motion by any witness seeking to

1 *quash or otherwise resist compliance with a subpoena issued by the*
2 *committee.*

3 ➔ Section 9. KRS 12.028 is amended to read as follows:

4 (1) Recognizing the necessity for grouping related functions of organizational units and
5 administrative bodies in order to promote greater economy, efficiency and improved
6 administration, the Governor, the Kentucky Economic Development Partnership as
7 created in KRS 154.10-010, and other elected state executive officers may propose
8 to the General Assembly, for its approval, changes in the state government
9 organizational structure which may include the creation, alteration or abolition of
10 any organizational unit or administrative body and the transfer of functions,
11 personnel, funds, equipment, facilities, and records from one (1) organizational unit
12 or administrative body to another.

13 (2) Recognizing that changes in the state government organizational structure may need
14 to be made as rapidly as possible to achieve greater economy, efficiency, and
15 improved administration as the needs of government dictate, the Governor, the
16 Kentucky Economic Development Partnership as created in KRS 154.10-010, and
17 other elected state executive officers may, between sessions of the General
18 Assembly, temporarily effect a change in the state government organizational
19 structure as described in subsection (1) of this section if such temporary
20 reorganization plan is first reviewed by the interim joint legislative committee with
21 appropriate jurisdiction. The Governor may not effect a temporary reorganization
22 plan under this subsection that would change the organizational structure of an
23 organizational unit or administrative body headed by the Kentucky Economic
24 Development Partnership as created in KRS 154.10-010, or another elected state
25 executive officer unless requested in writing by that officer. An elected state
26 executive officer other than the Governor may only change the organizational
27 structure of an organizational unit or administrative body that he heads.

- 1 (3) Any reorganization proposed under subsection (1) or (2) of this section shall be set
2 forth in a reorganization plan which shall be filed with the Legislative Research
3 Commission. The plan shall include:
- 4 (a) An explanation of each proposed change, including the need for the change;
 - 5 (b) An estimate of any reduction or increase in expenditures, itemized as far as
6 practicable, which the promulgating officer expects will result from the
7 reorganization;
 - 8 (c) A description of any improvements in the management, delivery of state
9 services, and efficiency of state government operations which the
10 promulgating officer expects will be realized as a result of the reorganization;
11 and
 - 12 (d) Specification of the effects of the reorganization on the budget and personnel
13 of each affected organizational unit or administrative body, including but not
14 limited to the amount of funds and the number of employees that will be
15 transferred from one (1) organizational unit or administrative body to another,
16 any reductions in the state workforce resulting from the reorganization, and
17 the methods to be utilized to achieve such reductions.
- 18 (4) When a proposed reorganization plan is submitted for review under subsection (2)
19 of this section the presiding co-chairman of the Legislative Research Commission
20 shall determine which interim joint legislative committee has appropriate
21 jurisdiction and shall refer the plan to such committee within ten (10) days after the
22 director of the Legislative Research Commission receives the proposal. The interim
23 joint legislative committee to which it is referred shall review the plan to determine
24 whether the plan can reasonably be expected to achieve greater economy, efficiency
25 or improved administration in state government. The committee shall report its
26 findings to the Legislative Research Commission. The committee shall review and
27 report on the plan within sixty (60) days after it is filed with the Legislative

1 Research Commission. If the committee does not report on a proposed plan within
 2 the time specified in this subsection, the plan shall be considered reviewed by the
 3 interim joint legislative committee with appropriate jurisdiction.

4 (5) A temporary reorganization effected under subsections (2) to (4) of this section
 5 shall be terminated ninety (90) days after sine die adjournment of the next regular
 6 session of the General Assembly unless otherwise specified by the General
 7 Assembly. The Governor, the Kentucky Economic Development Partnership as
 8 created in KRS 154.10-010, or other officer who promulgated a temporary
 9 reorganization plan under this section shall recommend legislation to the General
 10 Assembly to confirm the temporary reorganization plan. The subject matter of each
 11 executive order relating to reorganization shall be presented to the General
 12 Assembly in a separate bill. If the General Assembly fails to enact the temporary
 13 reorganization plan or an alternative to such plan, the organizational structure that
 14 existed immediately prior to the implementation of the temporary plan shall be
 15 reinstated upon the termination of the temporary plan. If the General Assembly fails
 16 to enact a temporary reorganization plan, the Governor, the Kentucky Economic
 17 Development Partnership as created in KRS 154.10-010, and other elected state
 18 executive officers shall not effect the plan prior to the next succeeding session of
 19 the General Assembly.

20 (6) The Legislative Research Commission or the Legislative Oversight~~[legislative~~
 21 ~~program review]~~ and Investigations Committee~~[investigations committee]~~ may
 22 monitor the implementation of any reorganization plan to determine the extent to
 23 which the anticipated improvements in economy, efficiency, or administration have
 24 been realized as a result of the reorganization and shall report its findings to the
 25 General Assembly.

26 (7) Funds transferred due to reorganization shall be maintained in separately designated
 27 accounts. Any excess funds resulting from a reorganization shall lapse to the

1 general fund surplus account.

2 → Section 10. KRS 620.055 is amended to read as follows:

- 3 (1) An external child fatality and near fatality review panel is hereby created and
4 established for the purpose of conducting comprehensive reviews of child fatalities
5 and near fatalities, reported to the Cabinet for Health and Family Services,
6 suspected to be a result of abuse or neglect. The panel shall be attached to the
7 Justice and Public Safety Cabinet for staff and administrative purposes.
- 8 (2) The external child fatality and near fatality review panel shall be composed of the
9 following five (5) ex officio nonvoting members and fifteen (15) voting members:
- 10 (a) The chairperson of the House Health and Welfare Committee of the Kentucky
11 General Assembly, who shall be an ex officio nonvoting member;
- 12 (b) The chairperson of the Senate Health and Welfare Committee of the Kentucky
13 General Assembly, who shall be an ex officio nonvoting member;
- 14 (c) The commissioner of the Department for Community Based Services, who
15 shall be an ex officio nonvoting member;
- 16 (d) The commissioner of the Department for Public Health, who shall be an ex
17 officio nonvoting member;
- 18 (e) A family court judge selected by the Chief Justice of the Kentucky Supreme
19 Court, who shall be an ex officio nonvoting member;
- 20 (f) A pediatrician from the University of Kentucky's Department of Pediatrics
21 who is licensed and experienced in forensic medicine relating to child abuse
22 and neglect to be selected by the Attorney General from a list of three (3)
23 names provided by the dean of the University of Kentucky School of
24 Medicine;
- 25 (g) A pediatrician from the University of Louisville's Department of Pediatrics
26 who is licensed and experienced in forensic medicine relating to child abuse
27 and neglect to be selected by the Attorney General from a list of three (3)

- 1 names provided by the dean of the University of Louisville School of
2 Medicine;
- 3 (h) The state medical examiner or designee;
- 4 (i) A court-appointed special advocate (CASA) program director to be selected
5 by the Attorney General from a list of three (3) names provided by the
6 Kentucky CASA Association;
- 7 (j) A peace officer with experience investigating child abuse and neglect fatalities
8 and near fatalities to be selected by the Attorney General from a list of three
9 (3) names provided by the commissioner of the Kentucky State Police;
- 10 (k) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by
11 the Attorney General from a list of three (3) names provided by the president
12 of the Prevent Child Abuse Kentucky, Inc. board of directors;
- 13 (l) A practicing local prosecutor to be selected by the Attorney General;
- 14 (m) The executive director of the Kentucky Domestic Violence Association or the
15 executive director's designee;
- 16 (n) The chairperson of the State Child Fatality Review Team established in
17 accordance with KRS 211.684 or the chairperson's designee;
- 18 (o) A practicing social work clinician to be selected by the Attorney General from
19 a list of three (3) names provided by the Board of Social Work;
- 20 (p) A practicing addiction counselor to be selected by the Attorney General from
21 a list of three (3) names provided by the Kentucky Association of Addiction
22 Professionals;
- 23 (q) A representative from the family resource and youth service centers to be
24 selected by the Attorney General from a list of three (3) names submitted by
25 the Cabinet for Health and Family Services;
- 26 (r) A representative of a community mental health center to be selected by the
27 Attorney General from a list of three (3) names provided by the Kentucky

- 1 Association of Regional Mental Health and Mental Retardation Programs,
2 Inc.;
- 3 (s) A member of a citizen foster care review board selected by the Chief Justice
4 of the Kentucky Supreme Court; and
- 5 (t) An at-large representative who shall serve as chairperson to be selected by the
6 Secretary of State.
- 7 (3) (a) By August 1, 2013, the appointing authority or the appointing authorities, as
8 the case may be, shall have appointed panel members. Initial terms of
9 members, other than those serving ex officio, shall be staggered to provide
10 continuity. Initial appointments shall be: five (5) members for terms of one (1)
11 year, five (5) members for terms of two (2) years, and five (5) members for
12 terms of three (3) years, these terms to expire, in each instance, on June 30
13 and thereafter until a successor is appointed and accepts appointment.
- 14 (b) Upon the expiration of these initial staggered terms, successors shall be
15 appointed by the respective appointing authorities, for terms of two (2) years,
16 and until successors are appointed and accept their appointments. Members
17 shall be eligible for reappointment. Vacancies in the membership of the panel
18 shall be filled in the same manner as the original appointments.
- 19 (c) At any time, a panel member shall recuse himself or herself from the review
20 of a case if the panel member believes he or she has a personal or private
21 conflict of interest.
- 22 (d) If a voting panel member is absent from two (2) or more consecutive,
23 regularly scheduled meetings, the member shall be considered to have
24 resigned and shall be replaced with a new member in the same manner as the
25 original appointment.
- 26 (e) If a voting panel member is proven to have violated subsection (13) of this
27 section, the member shall be removed from the panel, and the member shall

1 be replaced with a new member in the same manner as the original
2 appointment.

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

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

8 (6) Each panel member shall be provided copies of all information set out in this
9 subsection, including but not limited to records and information, upon request, to be
10 gathered, unredacted, and submitted to the panel within thirty (30) days by the
11 Cabinet for Health and Family Services from the Department for Community Based
12 Services or any agency, organization, or entity involved with a child subject to a
13 fatality or near fatality:

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

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

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

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

27 (d) All records of services provided by the Department for Juvenile Justice

1 regarding the deceased or injured child and his or her caregivers, residents of
2 the home, and persons involved with the child at the time of the incident;

3 (e) Autopsy reports;

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

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

9 1. Primary care records, including progress notes; developmental
10 milestones; growth charts that include head circumference; all laboratory
11 and X-ray requests and results; and birth record that includes record of
12 delivery type, complications, and initial physical exam of baby;

13 2. In-home provider care notes about observations of the family, bonding,
14 others in home, and concerns;

15 3. Hospitalization and emergency department records;

16 4. Dental records;

17 5. Specialist records; and

18 6. All photographs of injuries of the child that are available;

19 (h) Educational records of the deceased or injured child, or other children residing
20 in the home where the incident occurred, including but not limited to the
21 records and documents set out in this paragraph:

22 1. Attendance records;

23 2. Special education services;

24 3. School-based health records; and

25 4. Documentation of any interaction and services provided to the children
26 and family.

27 The release of educational records shall be in compliance with the Family

- 1 Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its
 2 implementing regulations;
- 3 (i) Head Start records or records from any other child care or early child care
 4 provider;
- 5 (j) Records of any Family, Circuit, or District Court involvement with the
 6 deceased or injured child and his or her caregivers, residents of the home and
 7 persons involved with the child at the time of the incident that include but are
 8 not limited to the juvenile and family court records and orders set out in this
 9 paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
- 10 1. Petitions;
- 11 2. Court reports by the Department for Community Based Services,
 12 guardian ad litem, court-appointed special advocate, and the Citizen
 13 Foster Care Review Board;
- 14 3. All orders of the court, including temporary, dispositional, or
 15 adjudicatory; and
- 16 4. Documentation of annual or any other review by the court;
- 17 (k) Home visit records from the Department for Public Health or other services;
- 18 (l) All information on prior allegations of abuse or neglect and deaths of children
 19 of adults residing in the household;
- 20 (m) All law enforcement records and documentation regarding the deceased or
 21 injured child and his or her caregivers, residents of the home, and persons
 22 involved with the child at the time of the incident; and
- 23 (n) Mental health records regarding the deceased or injured child and his or her
 24 caregivers, residents of the home, and persons involved with the child at the
 25 time of the incident.
- 26 (7) The panel may seek the advice of experts, such as persons specializing in the fields
 27 of psychiatric and forensic medicine, nursing, psychology, social work, education,

- 1 law enforcement, family law, or other related fields, if the facts of a case warrant
2 additional expertise.
- 3 (8) The panel shall post updates after each meeting to the Web site of the Justice and
4 Public Safety Cabinet regarding case reviews, findings, and recommendations.
- 5 (9) The panel chairperson, or other requested persons, shall report a summary of the
6 panel's discussions and proposed or actual recommendations to the Interim Joint
7 Committee on Health and Welfare of the Kentucky General Assembly monthly or at
8 the request of a committee co-chair. The goal of the committee shall be to ensure
9 impartiality regarding the operations of the panel during its review process.
- 10 (10) The panel shall publish an annual report by December 1 of each year consisting of
11 case reviews, findings, and recommendations for system and process improvements
12 to help prevent child fatalities and near fatalities that are due to abuse and neglect.
13 The report shall be submitted to the Governor, the secretary of the Cabinet for
14 Health and Family Services, the Chief Justice of the Supreme Court, the Attorney
15 General, and the director of the Legislative Research Commission for distribution to
16 the Child Welfare Oversight and Advisory Committee established in KRS 6.943
17 and the Judiciary Committee.
- 18 (11) Information and record copies that are confidential under state or federal law and
19 are provided to the external child fatality and near fatality review panel by the
20 Cabinet for Health and Family Services, the Department for Community Based
21 Services, or any agency, organization, or entity for review shall not become the
22 information and records of the panel and shall not lose their confidentiality by virtue
23 of the panel's access to the information and records. The original information and
24 records used to generate information and record copies provided to the panel in
25 accordance with subsection (6) of this section shall be maintained by the
26 appropriate agency in accordance with state and federal law and shall be subject to
27 the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests

1 shall be made to the appropriate agency, not to the external child fatality and near
2 fatality review panel or any of the panel members. Information and record copies
3 provided to the panel for review shall be exempt from the Kentucky Open Records
4 Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies
5 of information and records provided to the panel involving an individual case shall
6 be destroyed by the Justice and Public Safety Cabinet.

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

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

19 (14) A member of the external child fatality and near fatality review panel shall not be
20 prohibited from making a good faith report to any state or federal agency of any
21 information or issue that the panel member believes should be reported or disclosed
22 in an effort to facilitate effectiveness and transparency in Kentucky's child
23 protective services.

24 (15) A member of the external child fatality and near fatality review panel shall not be
25 held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as a
26 result of any action taken or omitted in the performance of the member's duties
27 pursuant to this section and KRS 620.050, except for violations of subsection (11),

1 (12), or (13) of this section.

2 (16) Beginning in 2014 the Legislative **Oversight**~~[Program Review]~~ and Investigations
3 Committee of the Kentucky General Assembly shall conduct an annual evaluation
4 of the external child fatality and near fatality review panel established pursuant to
5 this section to monitor the operations, procedures, and recommendations of the
6 panel and shall report its findings to the General Assembly.

7 ➔Section 11. Whereas the General Assembly's role in financial oversight is vital
8 to the efficient operation of state government, an emergency is declared to exist, and this
9 Act takes effect upon its passage and approval by the Governor or upon its otherwise
10 becoming law.