

CHAPTER 144 (HB 237)

AN ACT relating to children's advocacy centers.

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

Section 1. KRS 431.600 is amended to read as follows:

- (1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Families and Children. Cabinet for Families and Children social workers shall be available to assist in all investigations under this section but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse. Additional team members may include Commonwealth's and county attorneys, ***children's advocacy center staff***, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.
- (2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.
- (3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.
- (4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.
- (5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.
- (6) Commonwealth's attorneys and county attorneys and the Cabinet for Families and Children and other team members shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.
- (7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.
- (8) ***To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with a child shall be conducted at a children's advocacy center.***

Section 2. KRS 431.650 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.
- (2) The commission shall be comprised of the following members:
 - (a) The commissioner of the Department for Social Services or a designee;
 - (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
 - (c) One (1) family service worker who is employed by the Department for Social Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Families and Children;
 - (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for *Health Services*~~[Families and Children]~~;
 - (e) The commissioner of the Kentucky State Police or a designee;
 - (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;
 - (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
 - (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;
 - (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;
 - (j) The commissioner of the Department of Education or a designee;
 - (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;~~and~~
 - (l) *The executive director of the Governor's Office of Child Abuse and Domestic Violence Services or a designee;*
 - (m) *One (1) representative of a children's advocacy center who shall be appointed by the Governor;*
 - (n) *One (1) physician appointed by the Governor; and*
 - (o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.
- (3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.
- (4) The commission shall elect a chairperson annually from its membership.

Section 3. KRS 431.660 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse shall:
 - (a) Prepare and issue a model protocol for local multidisciplinary teams regarding investigation and prosecution of child sexual abuse *and the role of children's advocacy centers on multidisciplinary teams.*

- (b) Review and approve protocols prepared by local multidisciplinary teams.
 - (c) Advise local multidisciplinary teams on the investigation and prosecution of child sexual abuse.
 - (d) Receive data on child sexual abuse cases collected by the Prosecutors Advisory Council and issue annual reports.
 - (e) Collect data on the operation of local multidisciplinary teams.
 - (f) Seek funding to support special projects relating to the operation of local multidisciplinary teams.
 - (g) Receive and review complaints regarding local multidisciplinary teams, and make appropriate recommendations.
 - (h) Recommend to the Governor, Legislative Research Commission, and Supreme Court changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate effective intervention of child sexual abuse cases and the investigation and prosecution of perpetrators of child sexual abuse, and which may improve the opportunity for victims of child sexual abuse to receive treatment.
- (2) The Kentucky Multidisciplinary Commission on Child Sexual Abuse may, within budget limitations, establish and maintain necessary offices, appoint employees, and prescribe the duties and compensation for the appointed employees. Section 4. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

- (1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the biological family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;
- (2) "Case progress report" means a written record of goals that have been achieved in the case of a child;
- (3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;
- (4) ***"Children's advocacy center" means an agency that advocates on behalf of children alleged to have been abused; that assists in the coordination of the investigation of child abuse by providing a location for forensic interviews and promoting the coordination of services for children alleged to have been abused; and that provides services that include, but are not limited to, forensic medical examinations, mental health and related support services, court advocacy, consultation, training, and staffing of multidisciplinary teams;***
- (5) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:
 - (a) Removed from his parents or person exercising custodial control or supervision and subsequently placed in the custody of the cabinet; and
 - (b) Placed in a foster home or private child-caring facility or child-placing agency but remains under the supervision of the cabinet;

- ~~(6)~~~~(5)~~ "Local citizen foster care review board" means a citizen board which provides periodic permanency reviews of children placed in the custody of the cabinet by a court order of temporary custody or commitment under this chapter;
- ~~(7)~~~~(6)~~ "Multidisciplinary teams" means local teams operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse pursuant to KRS 431.600;
- ~~(8)~~~~(7)~~ "Permanence" means a relationship between a child and an adult which is intended to last a lifetime, providing commitment and continuity in the child's relationships and a sense of belonging;
- ~~(9)~~~~(8)~~ "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;
- ~~(10)~~~~(9)~~ "Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;
- ~~(11)~~~~(10)~~ "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and
- ~~(12)~~~~(11)~~ "State citizen foster care review board" means a board created by KRS 620.310.

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) The secretaries of the Cabinet for Families and Children, the Cabinet for Health Services, and the Justice Cabinet are authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional children's advocacy centers.*
- (2) To be eligible for grants from any state government entity, a children's advocacy center shall meet the statutory definition of a children's advocacy center as provided in this chapter and shall operate consistent with administrative regulations promulgated by the Cabinet for Families and Children in accordance with KRS Chapter 13A.*

Section 6. KRS 620.040 is amended to read as follows:

- (1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

- (2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports.
- (3) If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial *physical* abuse *or neglect* at the request of the local law enforcement agency or the Kentucky State Police. ***The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.***
- ~~(4)(3)~~ School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- ~~(5)(4)~~ (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
- (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- ~~(6)(5)~~ ***To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.***
- (7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

- (b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, *children's advocacy center staff*, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
- (f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
- (i) ***To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.***

Section 7. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.
- (2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the

cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

- (3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.
- (4) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:
 - (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600. ***Members may include staff from a children's advocacy center;*** or
 - (g) Those persons so authorized by court order.
- (5) The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case.
- (6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.
- (8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-

rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

Approved March 22, 2000