

CHAPTER 317 (HB 427)

AN ACT relating to domestic violence and sexual assault.

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

Section 1. KRS 194A.540 is amended to read as follows:

- (1) The secretary for health services shall, in consultation with the applicable licensure board, develop domestic violence-related training courses that are appropriate for the following professions:
 - (a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;
 - (b) ***Alcohol and drug counselors certified under KRS Chapter 309;***
 - (c) Physicians who practice primary care, as defined in KRS 164.925, ***or who meet the definition of a psychiatrist under KRS 202A.011,*** and who are licensed under KRS Chapter 311;~~and~~
 - (d)~~(e)~~—Nurses licensed under KRS Chapter 314;
 - (e) ***Paramedics certified under KRS Chapter 311;***
 - (f) ***Emergency medical technicians certified under KRS Chapter 211; and***
 - (g) ***Coroners as defined in KRS 72.405 and medical examiners as defined in KRS 72.240.***
- (2) The courses shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.
- (3) ~~Any~~~~[No later than June 30, 1999, every]~~ health-care or mental health professional ***identified in subsection (1) of this section***~~[licensed or certified under KRS Chapter 309, 311, 314, 319, or 335, on or after July 15, 1996,]~~ shall successfully complete a three (3) hour training course that meets the requirements of subsection (2) of this section. ***Health care or mental health professionals identified in subsection (1) of this section***~~[Persons]~~ who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Governor's Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.***
- (2) ***Members of the council shall include:***
 - (a) ***The Attorney General or a designee;***
 - (b) ***The secretary of the Cabinet for Families and Children or a designee;***
 - (c) ***The secretary of the Cabinet for Health Services or a designee;***

- (d) *The secretary of the Justice Cabinet or a designee;*
- (e) *The public advocate or a designee;*
- (f) *The executive director of the Governor's Office of Child Abuse and Domestic Violence Services;*
- (g) *The executive director of the Kentucky Criminal Justice Council;*
- (h) *The executive director of the Commission on Women;*
- (i) *At the direction of the Chief Justice of the Supreme Court, the director of the Administrative Office of the Courts;*
- (j) *One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;*
- (k) *The executive director of the Kentucky Domestic Violence Association;*
- (l) *The president of the Kentucky Domestic Violence Association or a designee;*
- (m) *The executive director of the Kentucky Association of Sexual Assault Programs;*
- (n) *The president of the Kentucky Association of Sexual Assault Programs or a designee;*
- (o) *Two (2) members of the Senate who shall be appointed by the President of the Senate;*
- (p) *Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and*
- (q) *The following members, who shall be appointed by the Governor. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:*
 - 1. *One (1) county attorney;*
 - 2. *One (1) Commonwealth's attorney;*
 - 3. *One (1) Circuit Court Clerk;*
 - 4. *One (1) sheriff;*
 - 5. *One (1) peace officer;*
 - 6. *Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;*
 - 7. *One (1) advocate for adult victims of domestic or sexual violence;*
 - 8. *One (1) advocate for child witnesses of domestic or sexual violence;*
 - 9. *One (1) physician;*
 - 10. *One (1) sexual assault nurse examiner;*
 - 11. *One (1) mental health professional with demonstrated expertise in treating offenders;*
 - 12. *One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;* 13.

One (1) person employed as a probation or parole officer; and

14. Two (2) citizen at-large members.

- (3) The Governor shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the Governor.**
- (4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.**
- (5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.**
- (6) The duties and responsibilities of the council shall include, but not be limited to, the following:**
 - (a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;**
 - (b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;**
 - (c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;**
 - (d) Promoting community awareness and the prevention of domestic and sexual violence;**
 - (e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice Cabinet, the Cabinet for Families and Children, and the Cabinet for Health Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;**
 - (f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Kentucky State Police, the Cabinet for Families and Children, the Cabinet for Health Services, the Department of Corrections, and the Administrative Office of the Courts;**
 - (g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and**
 - (h) Preparing a biennial report to be submitted no later than July 1 of every oddnumbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.**
- (7) The council shall establish any committees necessary to carry out its duties.**
- (8) The council shall be attached to the Governor's Office of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.**

- (9) *The secretary of the Justice Cabinet, the secretary of the Cabinet for Health Services, and the secretary of the Cabinet for Families and Children shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) *One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.*
- (2) *Membership on local domestic violence coordinating councils may include, but not be limited to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under Section 7 of this Act, family service workers employed by the Cabinet for Families and Children, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.*
- (3) *The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.*
- (4) *Local domestic violence coordinating councils shall develop a local protocol consistent with the model protocol issued by the Governor's Council on Domestic Violence and Sexual Assault.*
- (5) *Local domestic violence coordinating councils may, if authorized by the local coroner or a medical examiner, create a domestic violence fatality review team, the purpose of which shall be to prevent future deaths and injuries related to domestic violence.*
- (6) *Domestic violence fatality review teams of local domestic violence coordinating councils may:*
- (a) *Analyze information regarding local domestic violence fatalities to identify trends, patterns, and risk factors;*
 - (b) *Evaluate the effectiveness of local prevention and intervention strategies; and*
 - (c) *Recommend, to the Governor's Council on Domestic Violence and Sexual Assault, changes in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards that may facilitate the prevention of domestic violence fatalities. The fatality review team may establish a protocol for the investigation of domestic violence fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.*
- (7) *The review of a case by a domestic violence fatality review team may include information from reports generated or received by agencies, organizations, or individuals responsible for investigation, prosecution, or treatment in the case.*
- (8) *The proceedings, records, opinions, and deliberations of the domestic violence fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any*

evidence that is discoverable independent of the proceedings of the domestic violence fatality review team.

Section 4. KRS 403.7505 is amended to read as follows:

- (1) The Cabinet for Health Services shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.
- (2) The standards created by the cabinet shall be based on the following principles:
 - (a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;
 - (b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and
 - (c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.
- (3) The standards created by the cabinet shall address the following:
 - (a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;
 - (b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;
 - (c) Admittance and discharge criteria for domestic violence offenders to enter courtmandated treatment services provided pursuant to this section;
 - (d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;
 - (e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;
 - (f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;
 - (g) Payment protocols which require the offender to pay the actual cost for any courtmandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and
 - (h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.
- (4) The cabinet shall:
 - (a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and

- (b) Collect data from certified providers, which shall include the number of domestic violence offenders served by the certified providers, to be compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and the Legislative Research Commission.
- (5) *No person, association, or organization shall conduct, operate, maintain, advise, or advertise any program that provides court-ordered treatment services for domestic violence offenders without first obtaining or maintaining valid certification under this chapter. If the cabinet has cause to believe that court-ordered treatment services for domestic violence offenders are being provided by a person or entity that does not possess valid certification under this chapter, the cabinet may institute proceedings, in the Circuit Court of the county in which the person or entity is located or in Franklin Circuit Court, for injunctive relief to terminate the provision of those services.*

Section 5. KRS 403.784 is amended to read as follows:

- (1) The Justice Cabinet shall develop initial training courses and continuing education courses, designed to be provided at least once every two (2) years, for law enforcement officers, **police dispatchers, and probation or parole officers** concerning the dynamics of domestic violence, **child physical and sexual abuse, rape**, effects of **crime**~~[domestic violence]~~ on adult and child victims, legal remedies for protection, lethality and risk issues, **profiles of offenders**, model protocols for addressing domestic violence, **child abuse, rape**, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, **child abuse, and rape**.
- (2) All law enforcement agencies shall provide initial training and, at least once every two (2) years, continuing education courses, developed by the Justice Cabinet pursuant to subsection (1), to all officers employed by them.
- (3) *The Justice Cabinet shall provide initial training and, at least once every two (2) years, continuing education courses under subsection (1) of this section for police dispatchers and probation or parole officers.*

Section 6. KRS 15.718 is amended to read as follows:

- (1) The Attorney General shall provide initial training courses and, at least once every two (2) years, continuing education courses for Commonwealth's attorneys and county attorneys and their staffs concerning the dynamics of domestic violence, **child physical and sexual abuse, rape**, effects of **crime**~~[domestic violence]~~ on adult and child victims, legal remedies for protection, lethality and risk issues, **profiles of offenders**, model protocols for addressing domestic violence, **child abuse, rape**, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with **prosecutors**~~[legal]~~, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, **child abuse, and rape**.
- (2) Each Commonwealth's Attorney, assistant Commonwealth's Attorney, county attorney, and assistant county attorney shall successfully complete the training.

Section 7. KRS 421.570 is amended to read as follows:

- (1) For the purposes of this section and KRS 421.575, "victim advocate" means an individual at least eighteen (18) years of age and of good moral character, who is employed by, or serves

as a volunteer for, a public or private agency, organization, or official to counsel and assist crime victims as defined in KRS 421.500, and includes a victim advocate employed by a Commonwealth's attorney pursuant to KRS 15.760 and a victim advocate employed by a county attorney pursuant to KRS 69.350.

- (2) Each victim advocate shall complete training which shall include information concerning the difference between advocacy and the practice of law, and the appropriate intervention with crime victims, including victims of domestic violence, *child physical and sexual abuse, and rape*.
- (3) A victim advocate shall not engage in the practice of law as defined in KRS 524.130.

Section 8. The following KRS section is repealed:

15.944 In-service training for prosecutors on child sexual abuse.

Approved April 4, 2000