

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amendment)

922 KAR 1:470. Central registry.

RELATES TO: KRS 17.165(6), 61.876, 160.151, 160.380, 194A.380-194A.383, 199.466, 199.896(19), 199.8982(1)(a), 211.684(1)(a), 403.352, 600.020(1), (40), (61), (62), 620.050, 620.051, 625.050-625.120, 42 U.S.C. 671(a)(20), 5106a(b), 9858f

STATUTORY AUTHORITY: KRS 194A.050(1), 605.130(7), 605.150(1), 620.051(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(7), which authorizes the cabinet to perform services necessary for the protection of children. KRS 620.051(2) requires the cabinet to promulgate administrative regulations to establish the central registry and the process for a background check of the cabinet's child abuse and neglect records. This administrative regulation establishes the procedure by which the cabinet shall conduct a child abuse or neglect check using information in the central registry.

Section 1. Definitions.

- (1) "Abused or neglected child" is defined by KRS 600.020(1).
- (2) "Administrative review" means that the status of the individual subject to the central registry check is pending the outcome of an:
 - (a) Investigation or assessment in accordance with 922 KAR 1:330; or
 - (b) Appeal concerning a cabinet substantiated finding of child abuse or neglect.
- (3) "Child fatality" is defined by KRS 211.684(1)(a).
- (4) "Near fatality" is defined by KRS 600.020(40) and 42 U.S.C. 5106a(b)(4)(A).
- (5) "Sexual abuse" is defined by KRS 600.020(61).
- (6) "Sexual exploitation" is defined by KRS 600.020(62).

Section 2. Central Registry.

- (1) The central registry shall include the name of each individual:
 - (a) Who has been found by the cabinet to have abused or neglected a child on or after October 1, 1998; and
 - (b)
 1. Who waived the right to appeal a substantiated finding of child abuse or neglect in accordance with:
 - a. 922 KAR 1:480;
 - b. 922 KAR 1:320; or
 - c. 922 KAR 1:330, Section 11; or
 2. Whose substantiated incident was upheld upon appeal.
- (2) Each name shall:
 - (a) Remain on the central registry for a period of at least seven (7) years; and
 - (b) Be removed from the central registry after a period of seven (7) years if:
 1. No additional incident of child abuse or neglect has been substantiated by the cabinet since the time of the incident for which the individual's name was placed on the registry; and

2. Cabinet records indicate that the incident for which the individual's name was placed on the registry did not relate to:

- a. Sexual abuse or sexual exploitation of a child;
- b. A child fatality related to abuse or neglect;
- c. A near fatality related to abuse or neglect; or
- d. Involuntary termination of parental rights in accordance with KRS 625.050 through 625.120.

(3) This administrative regulation shall not apply to cabinet background checks required by 922 KAR 1:490.

(4) This administrative regulation shall not limit the cabinet's ability to disclose information in accordance with KRS 620.050 and 42 U.S.C. 5106a(b)(2)(B)(viii), (ix), or (x).

Section 3. Procedure for Requesting a Central Registry Check.

(1) If information from the central registry is required by law, a request for a central registry check may be made by an:

- (a) Individual;
- (b) Organization; or
- (c) Other entity.

(2) The cabinet shall conduct a check of the central registry for each individual who:

- (a) Submits a request for a check of the central registry in accordance with subsection (4) of this section; and

(b)

1. Applies for initial licensure;
2. Is hired by, or volunteers with, an entity required by law to obtain information contained in the central registry; or
3. Is hired by, or volunteers with, an entity that may require a central registry check as a condition for working with children on a regular basis.

(3) An individual who is not required by law to obtain information contained in the central registry shall submit an open records request in accordance with 922 KAR 1:510.

(4) A request for a central registry check shall be made:

- (a) By electronically submitting to the cabinet through the Kentucky Online Gateway:

1.

- a. A completed DCC-374, Child Care Central Registry Check, for an individual in child care as specified by 42 U.S.C. 9858f, KRS 199.466, or 922 KAR 2:280; or
- b. A completed DPP-156, Central Registry Check, for an individual required by a law not specified in clause a. of this subparagraph no later than five (5) working days after:

(i) The date of employment of an individual required by law to submit to a central registry check; or

(ii) A volunteer's first day, if the volunteer is required by law to submit to a central registry check; and

2. A nonrefundable fee of ten (10) dollars paid by credit or debit card; or

(b) Through another cabinet system, including the Kentucky National Background Check Program established by 906 KAR 1:190.

(5) A state requesting a child abuse or neglect check from the cabinet as required by 42 U.S.C. 671(a)(20) shall follow the procedures described in 922 KAR 1:490, Section 5.

Section 4. Administrative Review.

(1) The cabinet shall indicate on a central registry check if the individual is pending administrative review by the cabinet.

(2) An individual subject to administrative review in accordance with this section may submit a request for the disclosure of records in accordance with 922 KAR 1:510 to be

fulfilled once the administrative review process is complete.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DPP-156, Central Registry Check," 12/2021; and

(b) "DCC-374, Child Care Central Registry Check," 12/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

MARTA MIRANDA-STRAUB, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: November 19, 2021

FILED WITH LRC: December 13, 2021 at 2:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by February 14, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until February 28, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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