

AN ACT relating to child abuse and neglect.

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

➔Section 1. KRS 620.030 is amended to read as follows:

- (1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian, ~~or~~ person exercising custodial control or supervision, ***or child***, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.
- (2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, person exercising custodial control or supervision, ***child***, or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) or (3) of this section, file with the local law enforcement agency or the Department of Kentucky State Police or the Commonwealth's or county

attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

- (a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;
  - (b) The child's age;
  - (c) The nature and extent of the child's alleged dependency, neglect, or abuse, including any previous charges of dependency, neglect, or abuse, to this child or his or her siblings;
  - (d) The name and address of the person allegedly responsible for the abuse or neglect; and
  - (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (3) Any person who knows or has reasonable cause to believe that a child is a victim of human trafficking as defined in KRS 529.010 shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; or the cabinet or its designated representative; or the Commonwealth's attorney or the county attorney; by telephone or otherwise. This subsection shall apply regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, ~~or~~ person exercising custodial control or supervision, or child.
- (4) 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.
- (5) The cabinet upon request shall receive from any agency of the state or any other

agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

- (6) Any person who intentionally violates the provisions of this section shall be guilty of a:
- (a) Class B misdemeanor for the first offense;
  - (b) Class A misdemeanor for the second offense; and
  - (c) Class D felony for each subsequent offense.

➔Section 2. KRS 620.040 is amended to read as follows:

- (1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, ~~or~~ ~~person~~ exercising custodial control or supervision, or child, pursuant to KRS 620.030(1) or (2), or a report alleging a child is a victim of human trafficking pursuant to KRS 620.030(3), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.
- (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.
- (c) The cabinet shall, 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 the Department of Kentucky State Police concerning the action that has been taken on the investigation.

- (d) If the report alleges abuse or neglect by someone other than a parent, guardian, ~~for~~ person exercising custodial control or supervision, or child, or the human trafficking of a child, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or the Department of Kentucky State Police.
- (2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.
  - (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.
  - (c) The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection unless the report involves the human trafficking of a child, in which case the notification shall be required.
- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, ~~for~~ other person exercising custodial control or supervision of a child, or child, it shall immediately notify the local law enforcement agency or the Department of 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 shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse or human trafficking of a child.

- (4) 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)
  - (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 requested from, and may 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 or she is returned to the persons having custody of him or her, 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, is being sexually abused, or is a victim of human trafficking 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 or she 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) 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 shall not be limited to social service workers employed by the Cabinet for Health and Family Services 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 including advocates for victims of human trafficking, educators, and other related professionals, as deemed appropriate.
  - (c) The multidisciplinary team shall review child sexual abuse cases and child human trafficking cases involving commercial sexual activity 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 or child human trafficking cases involving commercial sexual activity 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 and child human trafficking cases involving commercial sexual activity.
- (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 3. KRS 620.060 is amended to read as follows:

- (1) The court for the county where the child is present may issue an ex parte emergency custody order when it appears to the court that removal is in the best interest of the child and that there are reasonable grounds to believe, as supported by affidavit or by recorded sworn testimony, that one (1) or more of the following conditions exist and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child:
  - (a) The child is in danger of imminent death or serious physical injury or is being sexually abused;
  - (b) The parent has repeatedly inflicted or allowed to be inflicted by other than accidental means physical injury or emotional injury. This condition shall not include reasonable and ordinary discipline recognized in the community where the child lives, as long as reasonable and ordinary discipline does not result in abuse or neglect as defined in KRS 600.020(1); or
  - (c) The child is in immediate danger due to the parent's failure or refusal to provide for the safety or needs of the child.
- (2) Custody may be placed with a relative taking into account the wishes of the custodial parent and child or any other appropriate person or agency including the cabinet.
- (3) An emergency custody order shall be effective no longer than seventy-two (72) hours, exclusive of weekends and holidays, unless there is a temporary removal hearing with oral or other notice to the county attorney and the parent or other person exercising custodial control or supervision of the child, to determine if the child should be held for a longer period. The seventy-two (72) hour period also may be extended or delayed upon the waiver or request of the child's parent or other person exercising custodial control or supervision.
- (4) **When an emergency custody order removes a child from the custody of the cabinet, the person or persons given temporary or permanent custody of the child**

or the child shall receive the funds, payments, reimbursements, medical expenses, child-care expenses, state-funded adoption assistance, nonrecurring adoption expenses, extraordinary medical expenses, and tuition and mandatory student fees that the person or persons given temporary or permanent custody of the child or the child was entitled to by virtue of the child being in the custody of the cabinet, pursuant to KRS 164.2847, 199.555, and 605.120. This subsection shall apply to any emergency custody orders which were issued prior to the effective date of this Act and any emergency custody orders issued on or after the effective date of this Act.

(5) Any person authorized to serve process shall serve the parent or other person exercising custodial control or supervision with a copy of the emergency custody order. If such person cannot be found, the sheriff shall make a good faith effort to notify the nearest known relative, neighbor, or other person familiar with the child.

~~(6)~~<sup>(5)</sup> Within seventy-two (72) hours of the taking of a child into custody without the consent of his parent or other person exercising custodial control or supervision, a petition shall be filed pursuant to this chapter.

~~(7)~~<sup>(6)</sup> Nothing herein shall preclude the issuance of arrest warrants pursuant to the Rules of Criminal Procedure.