

1 AN ACT relating to child abuse and declaring an emergency.

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

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

4 (1) Any person who knows or has reasonable cause to believe that a child is dependent,
5 neglected, or abused shall immediately cause an oral or written report to be made to
6 a local law enforcement agency or the Department of Kentucky State Police; the
7 cabinet or its designated representative; the Commonwealth's attorney or the county
8 attorney; by telephone or otherwise. Any supervisor who receives from an employee
9 a report of suspected dependency, neglect, or abuse shall promptly make a report to
10 the proper authorities for investigation. If the cabinet receives a report of abuse or
11 neglect allegedly committed by a person other than a parent, guardian, or person
12 exercising custodial control or supervision, the cabinet shall refer the matter to the
13 Commonwealth's attorney or the county attorney and the local law enforcement
14 agency or the Department of Kentucky State Police. Nothing in this section shall
15 relieve individuals of their obligations to report.

16 (2) Any person, including but not limited to a physician, osteopathic physician, nurse,
17 teacher, school personnel, social worker, coroner, medical examiner, child-caring
18 personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical
19 technician, paramedic, health professional, mental health professional, peace
20 officer, or any organization or agency for any of the above, who knows or has
21 reasonable cause to believe that a child is dependent, neglected, or abused,
22 regardless of whether the person believed to have caused the dependency, neglect,
23 or abuse is a parent, guardian, person exercising custodial control or supervision, or
24 another person, or who has attended such child as a part of his or her professional
25 duties shall, if requested, in addition to the report required in subsection (1) or (3) of
26 this section, file with the local law enforcement agency or the Department of
27 Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its

- 1 designated representative within forty-eight (48) hours of the original report a
2 written report containing:
- 3 (a) The names and addresses of the child and his or her parents or other persons
4 exercising custodial control or supervision;
 - 5 (b) The child's age;
 - 6 (c) The nature and extent of the child's alleged dependency, neglect, or abuse,
7 including any previous charges of dependency, neglect, or abuse, to this child
8 or his or her siblings;
 - 9 (d) The name and address of the person allegedly responsible for the abuse or
10 neglect; and
 - 11 (e) Any other information that the person making the report believes may be
12 helpful in the furtherance of the purpose of this section.
- 13 (3) Any person who knows or has reasonable cause to believe that a child is a victim of
14 human trafficking as defined in KRS 529.010 shall immediately cause an oral or
15 written report to be made to a local law enforcement agency or the Department of
16 Kentucky State Police; or the cabinet or its designated representative; or the
17 Commonwealth's attorney or the county attorney; by telephone or otherwise. This
18 subsection shall apply regardless of whether the person believed to have caused the
19 human trafficking of the child is a parent, guardian, or person exercising custodial
20 control or supervision.
- 21 (4) Neither the husband-wife nor any professional-client/patient privilege, except the
22 attorney-client ~~and clergy-penitent~~ privilege, shall be a ground for refusing to
23 report under this section or for excluding evidence regarding a dependent,
24 neglected, or abused child or the cause thereof, in any judicial proceedings resulting
25 from a report pursuant to this section. This subsection shall also apply in any
26 criminal proceeding in District or Circuit Court regarding a dependent, neglected, or
27 abused child.

1 (5) The cabinet upon request shall receive from any agency of the state or any other
2 agency, institution, or facility providing services to the child or his or her family,
3 such cooperation, assistance, and information as will enable the cabinet to fulfill its
4 responsibilities under KRS 620.030, 620.040, and 620.050.

5 (6) Any person who intentionally violates the provisions of this section shall be guilty
6 of a~~l~~:

7 ~~(a) Class B misdemeanor for the first offense;~~

8 ~~(b) Class A misdemeanor for the second offense; and~~

9 ~~(c) Class D felony for each subsequent offense].~~

10 ➔Section 2. KRS 620.050 is amended to read as follows:

11 (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS
12 620.030 to 620.050 in good faith shall have immunity from any liability, civil or
13 criminal, that might otherwise be incurred or imposed. Any such participant shall
14 have the same immunity with respect to participation in any judicial proceeding
15 resulting from such report or action. However, any person who knowingly makes a
16 false report and does so with malice shall be guilty of a Class A misdemeanor.

17 (2) Any employee or designated agent of a children's advocacy center shall be immune
18 from any civil liability arising from performance within the scope of the person's
19 duties as provided in KRS 620.030 to 620.050. Any such person shall have the
20 same immunity with respect to participation in any judicial proceeding. Nothing in
21 this subsection shall limit liability for negligence. Upon the request of an employee
22 or designated agent of a children's advocacy center, the Attorney General shall
23 provide for the defense of any civil action brought against the employee or
24 designated agent as provided under KRS 12.211 to 12.215.

25 (3) Neither the husband-wife nor any professional-client/patient privilege, except the
26 attorney-client ~~and clergy-penitent~~ privilege, shall be a ground for refusing to
27 report under this section or for excluding evidence regarding a dependent,

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

5 (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this
6 chapter, the cabinet as the designated agency or its delegated representative shall
7 initiate a prompt investigation or assessment of family needs, take necessary action,
8 and shall offer protective services toward safeguarding the welfare of the child. The
9 cabinet shall work toward preventing further dependency, neglect, or abuse of the
10 child or any other child under the same care, and preserve and strengthen family
11 life, where possible, by enhancing parental capacity for adequate child care.

12 (5) The report of suspected child abuse, neglect, or dependency and all information
13 obtained by the cabinet or its delegated representative, as a result of an investigation
14 or assessment made pursuant to this chapter, except for those records provided for
15 in subsection (6) of this section, shall not be divulged to anyone except:

16 (a) Persons suspected of causing dependency, neglect, or abuse;

17 (b) The custodial parent or legal guardian of the child alleged to be dependent,
18 neglected, or abused;

19 (c) Persons within the cabinet with a legitimate interest or responsibility related to
20 the case;

21 (d) A licensed child-caring facility or child-placing agency evaluating placement
22 for or serving a child who is believed to be the victim of an abuse, neglect, or
23 dependency report;

24 (e) Other medical, psychological, educational, or social service agencies, child
25 care administrators, corrections personnel, or law enforcement agencies,
26 including the county attorney's office, the coroner, and the local child fatality
27 response team, that have a legitimate interest in the case;

- 1 (f) A noncustodial parent when the dependency, neglect, or abuse is
2 substantiated;
- 3 (g) Members of multidisciplinary teams as defined by KRS 620.020 and which
4 operate pursuant to KRS 431.600;
- 5 (h) Employees or designated agents of a children's advocacy center;
- 6 (i) Those persons so authorized by court order; or
- 7 (j) The external child fatality and near fatality review panel established by KRS
8 620.055.
- 9 (6) (a) Files, reports, notes, photographs, records, electronic and other
10 communications, and working papers used or developed by a children's
11 advocacy center in providing services under this chapter are confidential and
12 shall not be disclosed except to the following persons:
- 13 1. Staff employed by the cabinet, law enforcement officers, and
14 Commonwealth's and county attorneys who are directly involved in the
15 investigation or prosecution of the case, including a cabinet investigation
16 or assessment of child abuse, neglect, and dependency in accordance
17 with this chapter;
 - 18 2. Medical and mental health professionals listed by name in a release of
19 information signed by the guardian of the child, provided that the
20 information shared is limited to that necessary to promote the physical or
21 psychological health of the child or to treat the child for abuse-related
22 symptoms;
 - 23 3. The court and those persons so authorized by a court order;
 - 24 4. The external child fatality and near fatality review panel established by
25 KRS 620.055; and
 - 26 5. The parties to an administrative hearing conducted by the cabinet or its
27 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-

1 substantiated finding of abuse or neglect. The children's advocacy center
2 may, in its sole discretion, provide testimony in lieu of files, reports,
3 notes, photographs, records, electronic and other communications, and
4 working papers used or developed by the center if the center determines
5 that the release poses a threat to the safety or well-being of the child, or
6 would be in the best interests of the child. Following the administrative
7 hearing and any judicial review, the parties to the administrative hearing
8 shall return all files, reports, notes, photographs, records, electronic and
9 other communications, and working papers used or developed by the
10 children's advocacy center to the center.

11 (b) The provisions of this subsection shall not be construed as to contravene the
12 Rules of Criminal Procedure relating to discovery.

13 (7) Nothing in this section shall prohibit a parent or guardian from accessing records for
14 his or her child providing that the parent or guardian is not currently under
15 investigation by a law enforcement agency or the cabinet relating to the abuse or
16 neglect of a child.

17 (8) Nothing in this section shall prohibit employees or designated agents of a children's
18 advocacy center from disclosing information during a multidisciplinary team review
19 of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this
20 information shall sign a confidentiality statement consistent with statutory
21 prohibitions on disclosure of this information.

22 (9) Employees or designated agents of a children's advocacy center may confirm to
23 another children's advocacy center that a child has been seen for services. If an
24 information release has been signed by the guardian of the child, a children's
25 advocacy center may disclose relevant information to another children's advocacy
26 center.

27 (10) (a) An interview of a child recorded at a children's advocacy center shall not be

1 duplicated, except that the Commonwealth's or county attorney prosecuting
2 the case may:

- 3 1. Make and retain one (1) copy of the interview; and
- 4 2. Make one (1) copy for the defendant's or respondent's counsel that the
5 defendant's or respondent's counsel shall not duplicate.

6 (b) The defendant's or respondent's counsel shall file the copy with the court clerk
7 at the close of the case.

8 (c) Unless objected to by the victim or victims, the court, on its own motion, or
9 on motion of the attorney for the Commonwealth shall order all recorded
10 interviews that are introduced into evidence or are in the possession of the
11 children's advocacy center, law enforcement, the prosecution, or the court to
12 be sealed.

13 (d) The provisions of this subsection shall not be construed as to contravene the
14 Rules of Criminal Procedure relating to discovery.

15 (11) Identifying information concerning the individual initiating the report under KRS
16 620.030 shall not be disclosed except:

- 17 (a) To law enforcement officials that have a legitimate interest in the case;
- 18 (b) To the agency designated by the cabinet to investigate or assess the report;
- 19 (c) To members of multidisciplinary teams as defined by KRS 620.020 that
20 operated under KRS 431.600
- 21 (d) Under a court order, after the court has conducted an in camera review of the
22 record of the state related to the report and has found reasonable cause to
23 believe that the reporter knowingly made a false report; or
- 24 (e) The external child fatality and near fatality review panel established by KRS
25 620.055.

26 (12) (a) Information may be publicly disclosed by the cabinet in a case where child
27 abuse or neglect has resulted in a child fatality or near fatality.

- 1 (b) The cabinet shall conduct an internal review of any case where child abuse or
2 neglect has resulted in a child fatality or near fatality and the cabinet had prior
3 involvement with the child or family. The cabinet shall prepare a summary
4 that includes an account of:
- 5 1. The cabinet's actions and any policy or personnel changes taken or to be
6 taken, including the results of appeals, as a result of the findings from
7 the internal review; and
 - 8 2. Any cooperation, assistance, or information from any agency of the state
9 or any other agency, institution, or facility providing services to the child
10 or family that were requested and received by the cabinet during the
11 investigation of a child fatality or near fatality.
- 12 (c) The cabinet shall submit a report by September 1 of each year containing an
13 analysis of all summaries of internal reviews occurring during the previous
14 year and an analysis of historical trends to the Governor, the General
15 Assembly, and the state child fatality review team created under KRS
16 211.684.
- 17 (13) When an adult who is the subject of information made confidential by subsection
18 (5) of this section publicly reveals or causes to be revealed any significant part of
19 the confidential matter or information, the confidentiality afforded by subsection (5)
20 of this section is presumed voluntarily waived, and confidential information and
21 records about the person making or causing the public disclosure, not already
22 disclosed but related to the information made public, may be disclosed if disclosure
23 is in the best interest of the child or is necessary for the administration of the
24 cabinet's duties under this chapter.
- 25 (14) As a result of any report of suspected child abuse or neglect, photographs and X-
26 rays or other appropriate medical diagnostic procedures may be taken or caused to
27 be taken, without the consent of the parent or other person exercising custodial

1 control or supervision of the child, as a part of the medical evaluation or
2 investigation of these reports. These photographs and X-rays or results of other
3 medical diagnostic procedures may be introduced into evidence in any subsequent
4 judicial proceedings or an administrative hearing conducted by the cabinet or its
5 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
6 substantiated finding of child abuse or neglect. The person performing the
7 diagnostic procedures or taking photographs or X-rays shall be immune from
8 criminal or civil liability for having performed the act. Nothing herein shall limit
9 liability for negligence.

10 (15) In accordance with 42 U.S.C. sec. 671, the cabinet shall share information about a
11 child in the custody of the cabinet with a relative or a parent of the child's sibling for
12 the purposes of:

- 13 (a) Evaluating or arranging a placement for the child;
- 14 (b) Arranging appropriate treatment services for the child; or
- 15 (c) Establishing visitation between the child and a relative, including a sibling of
16 the child.

17 ➔Section 3. The restrictions of KRS 6.945(1) shall not apply to Sections 1 and 2
18 of this Act.

19 ➔Section 4. If any provision of this Act or the application thereof to any person or
20 circumstance is held invalid, the invalidity shall not affect other provisions or
21 applications of the Act that can be given effect without the invalid provision or
22 application, and to this end the provisions of this Act are severable.

23 ➔Section 5. Whereas daily in Kentucky approximately 45 children will be the
24 victims of abuse, an emergency is declared to exist, and this Act takes effect upon its
25 passage and approval by the Governor or upon its otherwise becoming a law.