

1 AN ACT relating to the external child fatality and near fatality review panel.

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

3 ➔Section 1. KRS 620.055 is amended to read as follows:

- 4 (1) An external child fatality and near fatality review panel is hereby created and
 5 established for the purpose of conducting comprehensive reviews of child fatalities
 6 and near fatalities, reported to the Cabinet for Health and Family Services,
 7 suspected to be a result of abuse or neglect. The panel shall be attached to the
 8 Justice and Public Safety Cabinet for staff and administrative purposes.
- 9 (2) The external child fatality and near fatality review panel shall be composed of the
 10 following ***eight (8)***~~five (5)~~ ex officio nonvoting members and ***sixteen (16)***~~fifteen~~
 11 ~~(15)~~ voting members:
- 12 (a) The chairperson of the House Health and ***Family Services***~~[Welfare]~~
 13 Committee of the Kentucky General Assembly, who shall be an ex officio
 14 nonvoting member;
- 15 (b) The chairperson of the Senate Health and Welfare Committee of the Kentucky
 16 General Assembly, who shall be an ex officio nonvoting member;
- 17 (c) ***The House chairperson of the Child Welfare Oversight and Advisory***
 18 ***Committee of the Kentucky General Assembly, who shall be an ex officio***
 19 ***nonvoting member;***
- 20 (d) ***The Senate chairperson of the Child Welfare Oversight and Advisory***
 21 ***Committee of the Kentucky General Assembly, who shall be an ex officio***
 22 ***nonvoting member;***
- 23 (e) The commissioner of the Department for Community Based Services, who
 24 shall be an ex officio nonvoting member;
- 25 (f)~~(d)~~ The commissioner of the Department for Public Health, who shall be an
 26 ex officio nonvoting member;
- 27 (g)~~(e)~~ A family court judge selected by the Chief Justice of the Kentucky

1 Supreme Court, who shall be an ex officio nonvoting member;

2 ~~(h)~~~~(f)~~ A pediatrician from the University of Kentucky's Department of
3 Pediatrics who is licensed and experienced in forensic medicine relating to
4 child abuse and neglect to be selected by the Attorney General from a list of
5 three (3) names provided by the dean of the University of Kentucky School of
6 Medicine;

7 ~~(i)~~~~(g)~~ A pediatrician from the University of Louisville's Department of
8 Pediatrics who is licensed and experienced in forensic medicine relating to
9 child abuse and neglect to be selected by the Attorney General from a list of
10 three (3) names provided by the dean of the University of Louisville School of
11 Medicine;

12 ~~(j)~~~~(h)~~ The state medical examiner or designee;

13 ~~(k)~~~~(i)~~ A court-appointed special advocate (CASA) program director to be
14 selected by the Attorney General from a list of three (3) names provided by
15 the Kentucky CASA Association;

16 ~~(l)~~~~(j)~~ A peace officer with experience investigating child abuse and neglect
17 fatalities and near fatalities to be selected by the Attorney General from a list
18 of three (3) names provided by the commissioner of the Kentucky State
19 Police;

20 ~~(m)~~~~(k)~~ A representative from Prevent Child Abuse Kentucky, Inc. to be selected
21 by the Attorney General from a list of three (3) names provided by the
22 president of the Prevent Child Abuse Kentucky, Inc. board of directors;

23 ~~(n)~~~~(l)~~ A practicing local prosecutor to be selected by the Attorney General;

24 ~~(o)~~~~(m)~~ The executive director of the Kentucky Domestic Violence Association
25 or the executive director's designee;

26 ~~(p)~~~~(n)~~ The chairperson of the State Child Fatality Review Team established in
27 accordance with KRS 211.684 or the chairperson's designee;

- 1 (b) Upon the expiration of these initial staggered terms, successors shall be
2 appointed by the respective appointing authorities, for terms of two (2) years,
3 and until successors are appointed and accept their appointments. Members
4 shall be eligible for reappointment. Vacancies in the membership of the panel
5 shall be filled in the same manner as the original appointments.
- 6 (c) At any time, a panel member shall recuse himself or herself from the review
7 of a case if the panel member believes he or she has a personal or private
8 conflict of interest.
- 9 (d) If a voting panel member is absent from two (2) or more consecutive,
10 regularly scheduled meetings, the member shall be considered to have
11 resigned and shall be replaced with a new member in the same manner as the
12 original appointment.
- 13 (e) If a voting panel member is proven to have violated subsection (13) of this
14 section, the member shall be removed from the panel, and the member shall
15 be replaced with a new member in the same manner as the original
16 appointment.
- 17 (4) The panel shall meet at least quarterly and may meet upon the call of the
18 chairperson of the panel.
- 19 (5) Members of the panel shall receive no compensation for their duties related to the
20 panel, but may be reimbursed for expenses incurred in accordance with state
21 guidelines and administrative regulations.
- 22 (6) Each panel member shall be provided copies of all information set out in this
23 subsection, including but not limited to records and information, upon request, to be
24 gathered, unredacted, and submitted to the panel within thirty (30) days by the
25 Cabinet for Health and Family Services from the Department for Community Based
26 Services or any agency, organization, or entity involved with a child subject to a
27 fatality or near fatality:

- 1 (a) Cabinet for Health and Family Services records and documentation regarding
2 the deceased or injured child and his or her caregivers, residents of the home,
3 and persons supervising the child at the time of the incident that include all
4 records and documentation set out in this paragraph:
- 5 1. All prior and ongoing investigations, services, or contacts;
 - 6 2. Any and all records of services to the family provided by agencies or
7 individuals contracted by the Cabinet for Health and Family Services;
8 and
 - 9 3. All documentation of actions taken as a result of child fatality internal
10 reviews conducted pursuant to KRS 620.050(12)(b);
- 11 (b) Licensing reports from the Cabinet for Health and Family Services, Office of
12 Inspector General, if an incident occurred in a licensed facility;
- 13 (c) All available records regarding protective services provided out of state;
- 14 (d) All records of services provided by the Department for Juvenile Justice
15 regarding the deceased or injured child and his or her caregivers, residents of
16 the home, and persons involved with the child at the time of the incident;
- 17 (e) Autopsy reports;
- 18 (f) Emergency medical service, fire department, law enforcement, coroner, and
19 other first responder reports, including but not limited to photos and
20 interviews with family members and witnesses;
- 21 (g) Medical records regarding the deceased or injured child, including but not
22 limited to all records and documentation set out in this paragraph:
- 23 1. Primary care records, including progress notes; developmental
24 milestones; growth charts that include head circumference; all laboratory
25 and X-ray requests and results; and birth record that includes record of
26 delivery type, complications, and initial physical exam of baby;
 - 27 2. In-home provider care notes about observations of the family, bonding,

- 1 others in home, and concerns;
- 2 3. Hospitalization and emergency department records;
- 3 4. Dental records;
- 4 5. Specialist records; and
- 5 6. All photographs of injuries of the child that are available;
- 6 (h) Educational records of the deceased or injured child, or other children residing
- 7 in the home where the incident occurred, including but not limited to the
- 8 records and documents set out in this paragraph:
- 9 1. Attendance records;
- 10 2. Special education services;
- 11 3. School-based health records; and
- 12 4. Documentation of any interaction and services provided to the children
- 13 and family.
- 14 The release of educational records shall be in compliance with the Family
- 15 Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its
- 16 implementing regulations;
- 17 (i) Head Start records or records from any other child care or early child care
- 18 provider;
- 19 (j) Records of any Family, Circuit, or District Court involvement with the
- 20 deceased or injured child and his or her caregivers, residents of the home and
- 21 persons involved with the child at the time of the incident that include but are
- 22 not limited to the juvenile and family court records and orders set out in this
- 23 paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
- 24 1. Petitions;
- 25 2. Court reports by the Department for Community Based Services,
- 26 guardian ad litem, court-appointed special advocate, and the Citizen
- 27 Foster Care Review Board;

- 1 3. All orders of the court, including temporary, dispositional, or
2 adjudicatory; and
- 3 4. Documentation of annual or any other review by the court;
- 4 (k) Home visit records from the Department for Public Health or other services;
- 5 (l) All information on prior allegations of abuse or neglect and deaths of children
6 of adults residing in the household;
- 7 (m) All law enforcement records and documentation regarding the deceased or
8 injured child and his or her caregivers, residents of the home, and persons
9 involved with the child at the time of the incident; and
- 10 (n) Mental health records regarding the deceased or injured child and his or her
11 caregivers, residents of the home, and persons involved with the child at the
12 time of the incident.
- 13 (7) The panel may seek the advice of experts, such as persons specializing in the fields
14 of psychiatric and forensic medicine, nursing, psychology, social work, education,
15 law enforcement, family law, or other related fields, if the facts of a case warrant
16 additional expertise.
- 17 (8) The panel shall post updates after each meeting to the Web site of the Justice and
18 Public Safety Cabinet regarding case reviews, findings, and recommendations.
- 19 (9) The panel chairperson, or other requested persons, shall report a summary of the
20 panel's discussions and proposed or actual recommendations to the Interim Joint
21 Committee on Health and Welfare **and Family Services and the Child Welfare**
22 **Oversight and Advisory Committee** of the Kentucky General Assembly monthly or
23 at the request of a committee co-chair. The goal of the committee shall be to ensure
24 impartiality regarding the operations of the panel during its review process.
- 25 (10) The panel shall publish an annual report by **February 1**~~{December 1}~~ of each year
26 consisting of case reviews, findings, and recommendations for system and process
27 improvements to help prevent child fatalities and near fatalities that are due to abuse

1 and neglect. The report shall be submitted to the Governor, the secretary of the
2 Cabinet for Health and Family Services, the Chief Justice of the Supreme Court, the
3 Attorney General, and the director of the Legislative Research Commission for
4 distribution to the Child Welfare Oversight and Advisory Committee established in
5 KRS 6.943 and the Judiciary Committee.

6 (11) Information and record copies that are confidential under state or federal law and
7 are provided to the external child fatality and near fatality review panel by the
8 Cabinet for Health and Family Services, the Department for Community Based
9 Services, or any agency, organization, or entity for review shall not become the
10 information and records of the panel and shall not lose their confidentiality by virtue
11 of the panel's access to the information and records. The original information and
12 records used to generate information and record copies provided to the panel in
13 accordance with subsection (6) of this section shall be maintained by the
14 appropriate agency in accordance with state and federal law and shall be subject to
15 the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests
16 shall be made to the appropriate agency, not to the external child fatality and near
17 fatality review panel or any of the panel members. Information and record copies
18 provided to the panel for review shall be exempt from the Kentucky Open Records
19 Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies
20 of information and records provided to the panel involving an individual case shall
21 be destroyed by the Justice and Public Safety Cabinet.

22 (12) Notwithstanding any provision of law to the contrary, the portions of the external
23 child fatality and near fatality review panel meetings during which an individual
24 child fatality or near fatality case is reviewed or discussed by panel members may
25 be a closed session and subject to the provisions of KRS 61.815(1) and shall only
26 occur following the conclusion of an open session. At the conclusion of the closed
27 session, the panel shall immediately convene an open session and give a summary

1 of what occurred during the closed session.

2 (13) Each member of the external child fatality and near fatality review panel, any person
3 attending a closed panel session, and any person presenting information or records
4 on an individual child fatality or near fatality shall not release information or
5 records not available under the Kentucky Open Records Act, KRS 61.870 to 61.884
6 to the public.

7 (14) A member of the external child fatality and near fatality review panel shall not be
8 prohibited from making a good faith report to any state or federal agency of any
9 information or issue that the panel member believes should be reported or disclosed
10 in an effort to facilitate effectiveness and transparency in Kentucky's child
11 protective services.

12 (15) A member of the external child fatality and near fatality review panel shall not be
13 held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as a
14 result of any action taken or omitted in the performance of the member's duties
15 pursuant to this section and KRS 620.050, except for violations of subsection (11),
16 (12), or (13) of this section.

17 (16) Beginning in 2014 the Legislative Program Review and Investigations Committee
18 of the Kentucky General Assembly shall conduct an annual evaluation of the
19 external child fatality and near fatality review panel established pursuant to this
20 section to monitor the operations, procedures, and recommendations of the panel
21 and shall report its findings to the General Assembly.