

1 AN ACT relating to the reporting of child abuse.

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 to 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, fictive kin,
12 person in a position of authority, person in a position of special trust, or person
13 exercising custodial control or supervision, the cabinet shall refer the matter to the
14 Commonwealth's attorney or the county attorney and the local law enforcement
15 agency or the Department of Kentucky State Police. Nothing in this section shall
16 relieve individuals of their obligations to report.

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

1 this section, file with the local law enforcement agency or the Department of
2 Kentucky State Police, the cabinet or its designated representative, the
3 Commonwealth's attorney, or county attorney within forty-eight (48) hours of the
4 original report a written report containing:

5 (a) The names and addresses of the child and his or her parents or other persons
6 exercising custodial control or supervision;

7 (b) The child's age;

8 (c) The nature and extent of the child's alleged dependency, neglect, or abuse,
9 including any previous charges of dependency, neglect, or abuse, to this child
10 or his or her siblings;

11 (d) The name and address of the person allegedly responsible for the abuse or
12 neglect; and

13 (e) Any other information that the person making the report believes may be
14 helpful in the furtherance of the purpose of this section.

15 (3) Any person who knows or has reasonable cause to believe that a child is a victim of
16 human trafficking as defined in KRS 529.010 shall immediately cause an oral or
17 written report to be made to a local law enforcement agency or the Department of
18 Kentucky State Police; or the cabinet or its designated representative; or the
19 Commonwealth's attorney or the county attorney; by telephone or otherwise. This
20 subsection shall apply regardless of whether the person believed to have caused the
21 human trafficking of the child is a parent, guardian, fictive kin, person in a position
22 of authority, person in a position of special trust, or person exercising custodial
23 control or supervision.

24 (4) (a) Neither the husband-wife nor any professional-client/patient privilege, except
25 the attorney-client and clergy-penitent privilege, shall be a ground for refusing
26 to report under this section or for excluding evidence regarding a dependent,
27 neglected, or abused child or the cause thereof, in any judicial proceedings

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

4 **(b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is**
5 **limited to information received solely through confidential communications**
6 **with a clergy member, privately or in a confessional setting, when in the**
7 **course of the discipline or practice of the clergy member's church,**
8 **denomination, or organization, he or she is authorized or accustomed to**
9 **hearing those communications, and under the discipline, tenets, customs, or**
10 **practices of his or her church, denomination, or organization, has a duty to**
11 **keep those communications secret.**

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

16 (6) Nothing in this section shall limit the cabinet's investigatory authority under KRS
17 620.050 or any other obligation imposed by law.

18 (7) Any person who intentionally violates the provisions of this section shall be guilty
19 of a :

- 20 (a) Class B misdemeanor for the first offense;
- 21 (b) Class A misdemeanor for the second offense; and
- 22 (c) Class D felony for each subsequent offense.

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

24 (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS
25 620.030 to 620.050 in good faith shall have immunity from any liability, civil or
26 criminal, that might otherwise be incurred or imposed. Any such participant shall
27 have the same immunity with respect to participation in any judicial proceeding

1 resulting from such report or action. However, any person who knowingly makes a
2 false report and does so with malice shall be guilty of a Class A misdemeanor.

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

11 (3) (a) Neither the husband-wife nor any professional-client/patient privilege, except
12 the attorney-client and clergy-penitent privilege, shall be a ground for refusing
13 to report under this section or for excluding evidence regarding a dependent,
14 neglected, or abused child or the cause thereof, in any judicial proceedings
15 resulting from a report pursuant to this section. This subsection shall also
16 apply in any criminal proceeding in District or Circuit Court regarding a
17 dependent, neglected, or abused child.

18 (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is
19 limited to information received solely through confidential communications
20 with a clergy member, privately or in a confessional setting, when in the
21 course of the discipline or practice of the clergy member's church,
22 denomination, or organization, he or she is authorized or accustomed to
23 hearing those communications, and under the discipline, tenets, customs, or
24 practices of his or her church, denomination, or organization, has a duty to
25 keep those communications secret.

26 (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this
27 chapter, the cabinet as the designated agency or its delegated representative shall

1 initiate a prompt investigation or assessment of family needs, take necessary action,
2 and shall offer protective services toward safeguarding the welfare of the child. The
3 cabinet shall work toward preventing further dependency, neglect, or abuse of the
4 child or any other child under the same care, and preserve and strengthen family
5 life, where possible, by enhancing parental capacity for adequate child care.

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

- 10 (a) Persons suspected of causing dependency, neglect, or abuse;
- 11 (b) The custodial parent or legal guardian of the child alleged to be dependent,
12 neglected, or abused;
- 13 (c) Persons within the cabinet with a legitimate interest or responsibility related to
14 the case;
- 15 (d) A licensed child-caring facility or child-placing agency evaluating placement
16 for or serving a child who is believed to be the victim of an abuse, neglect, or
17 dependency report;
- 18 (e) Other medical, psychological, educational, or social service agencies, child
19 care administrators, corrections personnel, or law enforcement agencies,
20 including the county attorney's office, the coroner, and the local child fatality
21 response team, that have a legitimate interest in the case;
- 22 (f) A noncustodial parent when the dependency, neglect, or abuse is
23 substantiated;
- 24 (g) Members of multidisciplinary teams as defined by KRS 620.020 and which
25 operate pursuant to KRS 431.600;
- 26 (h) Employees or designated agents of a children's advocacy center;
- 27 (i) Those persons so authorized by court order; or

1 (j) The external child fatality and near fatality review panel established by KRS
2 620.055.

3 (6) (a) Files, reports, notes, photographs, records, electronic and other
4 communications, and working papers used or developed by a children's
5 advocacy center in providing services under this chapter are confidential and
6 shall not be disclosed except to the following persons:

7 1. Staff employed by the cabinet, law enforcement officers, and
8 Commonwealth's and county attorneys who are directly involved in the
9 investigation or prosecution of the case, including a cabinet investigation
10 or assessment of child abuse, neglect, and dependency in accordance
11 with this chapter;

12 2. Medical and mental health professionals listed by name in a release of
13 information signed by the guardian of the child, provided that the
14 information shared is limited to that necessary to promote the physical or
15 psychological health of the child or to treat the child for abuse-related
16 symptoms;

17 3. The court and those persons so authorized by a court order;

18 4. The external child fatality and near fatality review panel established by
19 KRS 620.055; and

20 5. The parties to an administrative hearing conducted by the cabinet or its
21 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
22 substantiated finding of abuse or neglect. The children's advocacy center
23 may, in its sole discretion, provide testimony in lieu of files, reports,
24 notes, photographs, records, electronic and other communications, and
25 working papers used or developed by the center if the center determines
26 that the release poses a threat to the safety or well-being of the child, or
27 would be in the best interests of the child. Following the administrative

1 hearing and any judicial review, the parties to the administrative hearing
2 shall return all files, reports, notes, photographs, records, electronic and
3 other communications, and working papers used or developed by the
4 children's advocacy center to the center.

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

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

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

16 (9) Employees or designated agents of a children's advocacy center may confirm to
17 another children's advocacy center that a child has been seen for services. If an
18 information release has been signed by the guardian of the child, a children's
19 advocacy center may disclose relevant information to another children's advocacy
20 center.

21 (10) (a) An interview of a child recorded at a children's advocacy center shall not be
22 duplicated, except that the Commonwealth's or county attorney prosecuting
23 the case may:

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

27 (b) The defendant's or respondent's counsel shall file the copy with the court clerk

1 at the close of the case.

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

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

9 (11) Identifying information concerning the individual initiating the report under KRS
10 620.030 shall not be disclosed except:

11 (a) To law enforcement officials that have a legitimate interest in the case;

12 (b) To the agency designated by the cabinet to investigate or assess the report;

13 (c) To members of multidisciplinary teams as defined by KRS 620.020 that
14 operated under KRS 431.600;

15 (d) Under a court order, after the court has conducted an in camera review of the
16 record of the state related to the report and has found reasonable cause to
17 believe that the reporter knowingly made a false report; or

18 (e) The external child fatality and near fatality review panel established by KRS
19 620.055.

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

22 (b) The cabinet shall conduct an internal review of any case where child abuse or
23 neglect has resulted in a child fatality or near fatality and the cabinet had prior
24 involvement with the child or family. The cabinet shall prepare a summary
25 that includes an account of:

26 1. The cabinet's actions and any policy or personnel changes taken or to be
27 taken, including the results of appeals, as a result of the findings from

- 1 the internal review; and
- 2 2. Any cooperation, assistance, or information from any agency of the state
- 3 or any other agency, institution, or facility providing services to the child
- 4 or family that were requested and received by the cabinet during the
- 5 investigation of a child fatality or near fatality.
- 6 (c) The cabinet shall submit a report by September 1 of each year containing an
- 7 analysis of all summaries of internal reviews occurring during the previous
- 8 year and an analysis of historical trends to the Governor, the General
- 9 Assembly, and the state child fatality review team created under KRS
- 10 211.684.
- 11 (13) When an adult who is the subject of information made confidential by subsection
- 12 (5) of this section publicly reveals or causes to be revealed any significant part of
- 13 the confidential matter or information, the confidentiality afforded by subsection (5)
- 14 of this section is presumed voluntarily waived, and confidential information and
- 15 records about the person making or causing the public disclosure, not already
- 16 disclosed but related to the information made public, may be disclosed if disclosure
- 17 is in the best interest of the child or is necessary for the administration of the
- 18 cabinet's duties under this chapter.
- 19 (14) As a result of any report of suspected child abuse or neglect, photographs and X-
- 20 rays or other appropriate medical diagnostic procedures may be taken or caused to
- 21 be taken, without the consent of the parent or other person exercising custodial
- 22 control or supervision of the child, as a part of the medical evaluation or
- 23 investigation of these reports. These photographs and X-rays or results of other
- 24 medical diagnostic procedures may be introduced into evidence in any subsequent
- 25 judicial proceedings or an administrative hearing conducted by the cabinet or its
- 26 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
- 27 substantiated finding of child abuse or neglect. The person performing the

1 diagnostic procedures or taking photographs or X-rays shall be immune from
2 criminal or civil liability for having performed the act. Nothing herein shall limit
3 liability for negligence.

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

- 7 (a) Evaluating or arranging a placement for the child;
- 8 (b) Arranging appropriate treatment services for the child; or
- 9 (c) Establishing visitation between the child and a relative, including a sibling of
10 the child.

11 (16) In accordance with 42 U.S.C. sec. 671, the cabinet shall, in the case of siblings
12 removed from their home who are not jointly placed, provide for frequent visitation
13 or other ongoing interaction between the siblings, unless the cabinet determines that
14 frequent visitation or other ongoing interaction would be contrary to the safety or
15 well-being of any of the siblings.