

1 AN ACT relating to legislative oversight and declaring an emergency.

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

3 ➔Section 1. KRS 6.900 is amended to read as follows:

4 As used in KRS ~~6.900~~~~[6.905]~~ to 6.935:

- 5 (1) "Committee" means the Legislative ~~Program Review~~ **Oversight** and Investigations  
6 Committee;
- 7 (2) "Investigation" means an inquiry into possible acts of impropriety in the use of  
8 public funds or performance of public duty by ~~an elected or appointed state official~~  
9 ~~or a state employee or contractor~~ **a person**;
- 10 (3) **"Person" means:**
- 11 **(a) An elected or appointed state official;**
- 12 **(b) A state agency;**
- 13 **(c) A current or former state employee;**
- 14 **(d) A contractor who has responded to a request for proposal by a state agency,**  
15 **including those offered under KRS Chapter 45A;**
- 16 **(e) An individual or entity responding to a request for contract by a state**  
17 **agency, including a personal service contract; or**
- 18 **(f) Any private individual or entity doing business with anyone listed in**  
19 **paragraphs (a) to (e) of this subsection;**
- 20 **(4)** "Review" means a noninvestigative study of the operation, accomplishments,  
21 management, or activities of an agency or program and includes procedures such as  
22 fiscal audit, program/performance evaluation, program audit, management audit,  
23 policy analysis, or other related terms;
- 24 ~~(5)~~~~(4)~~ "Study" means any investigation or review initiated or undertaken by the  
25 committee; and
- 26 ~~(6)~~~~(5)~~ "State agency" means:
- 27 (a) Any entity, including multijurisdictional organization or interagency entities,

1 created by the Constitution of Kentucky, by an act of the General Assembly,  
2 or by any of the branches of state government or any of its subdivisions,  
3 instrumentalities, or affiliated organizations, or by any employee or official  
4 acting in his official capacity;

5 (b) Any entity which receives any part of its funding or resources from state tax  
6 dollars, from funds or resources entrusted to the Commonwealth from other  
7 sources, or from fines, fees, licensing, or penalties authorized by state statute  
8 or administrative regulation;

9 (c) Any entity which is federally funded and for which the Commonwealth of  
10 Kentucky is responsible for the oversight or expenditures of the federal  
11 resources;

12 (d) That portion of a public or private entity which receives or has received  
13 resources, such as funds, equipment, property, supplies, or services, directly or  
14 indirectly from the Commonwealth of Kentucky; and

15 (e) That portion of a public or private entity related to the delivery of services to  
16 or for the Commonwealth of Kentucky or an entity of the Commonwealth as  
17 defined in paragraph (a), (b), (c), or (d) of this subsection.

18 ➔Section 2. KRS 6.905 is amended to read as follows:

19 (1) There is created a Legislative Oversight~~[Program—Review]~~ and Investigations  
20 Committee which shall be a permanent standing committee of the General  
21 Assembly, consisting of eight (8) members of the Senate, six (6) of whom shall be  
22 appointed by the President and two (2) of whom shall be appointed by the Minority  
23 Leader of the Senate, and eight (8) members of the House of Representatives, six  
24 (6) of whom shall be appointed by the Speaker and two (2) of whom shall be  
25 appointed by the Minority Leader of the House of Representatives. At least one (1)  
26 appointee by each appointive authority shall be a member of the Senate or House  
27 Standing Committee on Appropriations and Revenue.~~[The appointments shall be~~

1       ~~made within seven (7) legislative days of the end of each regular session of the~~  
2       ~~General Assembly held in even numbered years, and the members so appointed~~  
3       ~~shall serve for a term of two (2) years coextensive with the biennium in which the~~  
4       ~~appointment is made. Vacancies shall be filled within sixty (60) days of occurrence~~  
5       ~~in the same manner as the original appointments, and for the balance of the term of~~  
6       ~~the vacated member.]~~

7       (2) The **President and the Speaker shall each appoint a**~~[members appointed from each~~  
8       ~~chamber shall elect one (1) member from their chamber to serve as] co-chair **and**~~  
9       ~~**vice chair from their respective bodies.** [Co chairs shall be elected at the first~~  
10       ~~meeting of the committee following the end of the regular session in even-~~  
11       ~~numbered years.]~~ The co-chairs shall have joint responsibilities for committee  
12       meeting agendas and presiding at committee meetings. On an alternating basis, each  
13       co-chair shall have the first option to set the monthly meeting date. A monthly  
14       meeting may be canceled by agreement of both co-chairs. A majority of the entire  
15       membership of the Legislative **Oversight**~~[Program Review] and Investigations~~  
16       Committee shall constitute a quorum, and all actions of the committee shall be by  
17       vote of a majority of its entire membership.

18       (3) ~~[When a study is instituted, the committee shall request that the Legislative~~  
19       ~~Research Commission appoint the co-chairs and two (2) minority members from the~~  
20       ~~interim joint committee of relevant jurisdiction to serve as nonvoting ex-officio~~  
21       ~~members of the committee in activities related to the relevant study. One (1) of the~~  
22       ~~minority members shall be a member of the House of Representatives designated by~~  
23       ~~the House Minority Floor Leader and the other minority member shall be a member~~  
24       ~~of the Senate designated by the Senate Minority Floor Leader.~~

25       (4) ~~]~~Each~~[ regular and nonvoting ex-officio]~~ member of the committee shall receive the  
26       same travel allowances and compensation for attending interim meetings of the  
27       committee as are received by members of subcommittees of the Legislative

1 Research Commission under KRS 7.090(3).

- 2 **(4) (a) In the event the co-chairs appoint a subcommittee, the subcommittee shall**  
 3 **be overseen by the co-chairs. A co-chair may designate a vice chair from his**  
 4 **or her respective body to serve as his or her delegate to the committee; and**  
 5 **(b) The subcommittee shall include representation of at least one-third (1/3) of**  
 6 **the members of the minority party and may include a member of the**  
 7 **committee of relevant jurisdiction.**

8 ➔Section 3. KRS 6.910 is amended to read as follows:

9 [~~The committee shall have the power and duty to:~~]

- 10 (1) **The purpose of the Legislative Oversight and Investigations Committee shall be**  
 11 **to serve as the main investigative committee in the General Assembly. The**  
 12 **committee shall have the authority to investigate the subjects within the**  
 13 **committee's legislative jurisdiction and within the jurisdiction of other standing**  
 14 **or statutory committees of the General Assembly.**

15 **(2) The committee shall have the discretionary power to:**

16 **(a)** Make studies of the operations of state agencies to ascertain that sums  
 17 appropriated have been, or are being, expended for the purposes for which  
 18 such appropriations were made and to evaluate the effectiveness of programs  
 19 in accomplishing legislative intent;

20 **(b)**~~(2)~~ Study on a continuing basis the operations, practices, and duties of state  
 21 agencies, as they relate to efficiency in the utilization of space, personnel,  
 22 equipment, and facilities;

23 **(c)**~~(3)~~ Make such special studies and reports of the operations and functions of  
 24 state agencies as it deems appropriate and as may be requested by the General  
 25 Assembly;

26 **(d)**~~(4)~~ Make such reports on its findings and recommendations at such time and  
 27 in such manner as the committee deems proper, submitting such reports to the

1 agencies concerned, to the Governor and to the General Assembly. Such  
 2 reports shall relate to the following matters:

3 ~~1.[(a)]~~ Whether any state agency is carrying out only those activities or  
 4 programs authorized by legal or administrative action; or

5 ~~2.[(b)]~~ Whether the programs and activities of a state agency, or a  
 6 particular program or activity is being operated efficiently, effectively,  
 7 or in accordance with legislative or administrative intent; or

8 ~~3.[(c)]~~ Whether there is a need for change in any authorized activity or  
 9 program of a state agency; or

10 ~~4.[(d)]~~ Whether any reorganization of a state agency, or group of state  
 11 agencies, is needed or justified to accomplish the results of programs or  
 12 activities; or

13 ~~5.[(e)]~~ Any combination of the purposes specified in this or any other  
 14 section of KRS ~~6.900~~~~[6.905]~~ to 6.935;[-]

15 ~~(e)[(5)]~~ ***Treat*** information obtained or prepared by the committee or its staff[-  
 16 ~~shall be treated~~] as confidential working papers subject to release according to  
 17 the operating rules and procedures adopted by the committee, ***and such***  
 18 ***information shall be exempt from the open records requirements contained***  
 19 ***in KRS 61.870 to 61.884.*** The committee may close certain[-~~planning~~]  
 20 meetings and project briefings to protect research ***pursuant to KRS 61.805 to***  
 21 ***61.850,[-and]*** to allow the exchange of confidential materials, ***and***  
 22 ***information, to protect the identity of witnesses, when necessary, and to***  
 23 ***protect the integrity of the study.*** Any information protected by[-  
 24 ~~confidentiality agreements or~~] federal[-, state, or local] laws shall not be  
 25 subject to public release;[-]

26 ~~(f)[(6)]~~ Consider and act on requests for studies submitted by legislators,  
 27 legislative committees, elected officials of state government, state cabinet

1 secretaries, and department and agency heads. Requests shall be submitted in  
 2 writing and shall state reasons to support the request. The decision of the  
 3 committee to grant or deny such a request shall be final;

4 **(g) Review any conditions or circumstances that may indicate the necessity or**  
 5 **desirability of enacting new or additional legislation addressing subjects**  
 6 **within its jurisdiction or the jurisdiction of any standing or statutory**  
 7 **committee;**

8 **(h) Evaluate the effect of laws enacted to reorganize any branch of state**  
 9 **government;**

10 ~~(i)(7)~~ Conduct studies directed by joint resolution of the General Assembly;

11 ~~(j)(8)~~ When the General Assembly is not in session, conduct studies:

12 ~~1.(a)~~ Initiated by **joint agreement**~~[a majority vote]~~ of the **co-**  
 13 **chairs**~~[committee];[or]~~

14 ~~2.(b)~~ **Initiated by a majority vote of the committee; or**

15 ~~3.~~ Requested by the Legislative Research Commission or an interim joint  
 16 committee thereof. In the event two (2) or more studies are requested,  
 17 the priority among them shall be determined by the committee;~~[-]~~

18 ~~(k)(9)~~ **After**~~[Before]~~ voting to undertake a review under~~[subsection]~~  
 19 **paragraph (j)(1.)**~~[(8)(a)]~~ of this **subsection**~~[section]~~, the committee shall  
 20 notify the **chair**~~[chairman]~~ of the committee of relevant jurisdiction~~[for his~~  
 21 ~~comment]~~~~[-]~~

22 ~~(L)(10)~~ **To determine if a witness should be prosecuted for perjury by**  
 23 **testifying falsely before the committee, and to institute appropriate penal**  
 24 **proceedings as provided by law. Any finding under this paragraph shall**  
 25 **require a majority vote of the committee; and**~~[The committee shall notify the~~  
 26 ~~Legislative Research Commission periodically of the committee's activities,~~  
 27 ~~and at any time a new study is to commence. Any study conducted by the~~

1           committee shall be deemed within its lawful duties and jurisdiction unless  
2           notified to the contrary by the Legislative Research Commission.}]

3           *(m) Conduct a study of any matter without regard to jurisdiction of the matter*  
4           *being conferred to another statutory or standing committee.*

5           *(3) Each witness who appears before the committee by its subpoena or order, other*  
6           *than an officer or employee of the state, shall be entitled to the fees and mileage*  
7           *provided for witnesses in civil cases in Circuit Court, which shall be audited and*  
8           *paid upon the presentation of proper vouchers sworn to by such witnesses and*  
9           *approved by the chair of the committee.*

10          *(4) The committee may issue subpoenas to compel the attendance and testimony of*  
11          *witnesses or the production of documents, books, papers, or other records.*  
12          *Subpoenas may be issued by agreement of the co-chairs or by a vote of the*  
13          *majority of the members of the committee and shall be served in the same*  
14          *manner as subpoenas for witnesses in civil cases. All provisions of law relative to*  
15          *subpoenas issued in such cases, including compensation of witnesses, shall apply*  
16          *to subpoenas issued by the committee.*

17          ➔Section 4. KRS 6.922 is amended to read as follows:

18          Beginning in 2014 the Legislative *Oversight*~~[Program Review]~~ and Investigations  
19          Committee of the Kentucky General Assembly shall conduct an annual evaluation of the  
20          external child fatality and near fatality review panel established pursuant to KRS 620.055  
21          to monitor the operations, procedures, and recommendations of the panel and shall report  
22          its findings to the General Assembly.

23          ➔Section 5. KRS 6.925 is amended to read as follows:

24          When making a study, the committee may require that testimony be given under oath,  
25          which may be administered by the chairman or by any person authorized by law to  
26          administer oaths. The committee may require that such testimony or any proceedings of  
27          the committee be recorded by an official court reporter or other competent person, under

1 oath. The transcript, when written, certified and approved by the recorder and transcriber  
 2 as being the direct transcript of the testimony, or proceedings, shall be prima facie a  
 3 correct statement of said testimony or proceedings provided that the recorder and  
 4 transcriber's signature to such certificate is duly acknowledged by him before a notary  
 5 public or a judicial official of the Commonwealth.

6 →Section 6. KRS 6.930 is amended to read as follows:

7 (1) ~~[In any instance in which a study conducted by or for ]~~The committee **may**~~[cites~~  
 8 ~~inadequate operating or administrative systems controls or procedures, inaccuracies,~~  
 9 ~~waste, extravagance, unauthorized or unintended activities or programs, or other~~  
 10 ~~deficiencies, the committee shall]~~ report ***its findings***~~[such deficiencies] and[ its]~~  
 11 ~~recommendations[ for their correction]~~ to the head of the state agency or program  
 12 and the secretary of the cabinet to which the report pertains.

13 (2) The secretary of the cabinet **or**~~[and]~~ the head of the state agency or program to  
 14 which the report pertains shall give affirmative consideration to the report within  
 15 sixty (60) days of the adoption of the report by:

16 (a) Adopting the committee's recommendations and reporting their actions to the  
 17 committee; or

18 (b) Otherwise correcting the deficiency and reporting their actions, and the  
 19 reasons for not adopting the committee's recommendations, to the committee.

20 (3) If no corrective action is taken by the secretary of the cabinet or by the head of the  
 21 state agency or program in response to a committee report under subsections (1) and  
 22 (2) of this section, or if the committee deems the corrective action taken to be  
 23 unsuitable, the committee **may**~~[shall]~~ report the matter to the General Assembly,  
 24 together with its recommendations.

25 (4) The committee **may**~~[shall]~~ report the results of each of its studies, including the  
 26 committee's recommendations for any further action, to the General Assembly.

27 **(5) The committee may report any matter under its study to any law enforcement**

1 agency, the Auditor of Public Accounts, or any other state official having  
 2 jurisdiction over the matter for investigation. If a matter is referred under this  
 3 subsection, the law enforcement agency, Auditor of Public Accounts, or other  
 4 state official with jurisdiction over the matter shall make a report to the  
 5 committee with its findings within thirty (30) days of completion of the  
 6 investigation.

7 ➔Section 7. KRS 6.935 is amended to read as follows:

8 (1) The Attorney General, or an assistant attorney general designated by him, the  
 9 Auditor of Public Accounts, cabinet secretaries, and the heads of other state  
 10 agencies shall assist the Legislative Oversight~~[Program Review]~~ and Investigations  
 11 Committee in whatever manner the co-chairs deem~~[committee deems]~~ that these  
 12 officials can be helpful.

13 (2) Staffing and support services shall be provided to the Legislative  
 14 Oversight~~[Program Review]~~ and Investigations Committee pursuant to KRS 7.090.

15 ➔SECTION 8. A NEW SECTION OF KRS 6.900 TO 6.935 IS CREATED TO  
 16 READ AS FOLLOWS:

17 Any person who fails to comply with a subpoena issued pursuant to Section 3 of this  
 18 Act may be fined by the committee an amount not to exceed one hundred dollars  
 19 (\$100) per day, up to a maximum total fine of one thousand dollars (\$1,000). The  
 20 committee shall have the authority to enforce compliance with subpoenas, including  
 21 holding the noncompliant person in contempt of the General Assembly which includes  
 22 any action that could be taken by a Circuit Court to enforce compliance with a  
 23 subpoena issued pursuant to the authority of a Kentucky Court of Justice. Upon  
 24 petition by the committee, any Circuit Court within the jurisdiction of which any  
 25 inquiry is being carried on or having jurisdiction over the person may, in case of  
 26 refusal to obey a subpoena or order of the committee, issue an order requiring  
 27 compliance. Any failure to obey the order of the court may be punished by the court as

1 **contempt thereof in addition to any other duly authorized punishment.**

2 ➔Section 9. KRS 12.028 is amended to read as follows:

3 (1) Recognizing the necessity for grouping related functions of organizational units and  
4 administrative bodies in order to promote greater economy, efficiency and improved  
5 administration, the Governor, the Kentucky Economic Development Partnership as  
6 created in KRS 154.10-010, and other elected state executive officers may propose  
7 to the General Assembly, for its approval, changes in the state government  
8 organizational structure which may include the creation, alteration or abolition of  
9 any organizational unit or administrative body and the transfer of functions,  
10 personnel, funds, equipment, facilities, and records from one (1) organizational unit  
11 or administrative body to another.

12 (2) Recognizing that changes in the state government organizational structure may need  
13 to be made as rapidly as possible to achieve greater economy, efficiency, and  
14 improved administration as the needs of government dictate, the Governor, the  
15 Kentucky Economic Development Partnership as created in KRS 154.10-010, and  
16 other elected state executive officers may, between sessions of the General  
17 Assembly, temporarily effect a change in the state government organizational  
18 structure as described in subsection (1) of this section if such temporary  
19 reorganization plan is first reviewed by the interim joint legislative committee with  
20 appropriate jurisdiction. The Governor may not effect a temporary reorganization  
21 plan under this subsection that would change the organizational structure of an  
22 organizational unit or administrative body headed by the Kentucky Economic  
23 Development Partnership as created in KRS 154.10-010, or another elected state  
24 executive officer unless requested in writing by that officer. An elected state  
25 executive officer other than the Governor may only change the organizational  
26 structure of an organizational unit or administrative body that he heads.

27 (3) Any reorganization proposed under subsection (1) or (2) of this section shall be set

1       forth in a reorganization plan which shall be filed with the Legislative Research  
2       Commission. The plan shall include:

3       (a) An explanation of each proposed change, including the need for the change;

4       (b) An estimate of any reduction or increase in expenditures, itemized as far as  
5       practicable, which the promulgating officer expects will result from the  
6       reorganization;

7       (c) A description of any improvements in the management, delivery of state  
8       services, and efficiency of state government operations which the  
9       promulgating officer expects will be realized as a result of the reorganization;  
10      and

11      (d) Specification of the effects of the reorganization on the budget and personnel  
12      of each affected organizational unit or administrative body, including but not  
13      limited to the amount of funds and the number of employees that will be  
14      transferred from one (1) organizational unit or administrative body to another,  
15      any reductions in the state workforce resulting from the reorganization, and  
16      the methods to be utilized to achieve such reductions.

17      (4) When a proposed reorganization plan is submitted for review under subsection (2)  
18      of this section the presiding co-chairman of the Legislative Research Commission  
19      shall determine which interim joint legislative committee has appropriate  
20      jurisdiction and shall refer the plan to such committee within ten (10) days after the  
21      director of the Legislative Research Commission receives the proposal. The interim  
22      joint legislative committee to which it is referred shall review the plan to determine  
23      whether the plan can reasonably be expected to achieve greater economy, efficiency  
24      or improved administration in state government. The committee shall report its  
25      findings to the Legislative Research Commission. The committee shall review and  
26      report on the plan within sixty (60) days after it is filed with the Legislative  
27      Research Commission. If the committee does not report on a proposed plan within

1 the time specified in this subsection, the plan shall be considered reviewed by the  
2 interim joint legislative committee with appropriate jurisdiction.

3 (5) A temporary reorganization effected under subsections (2) to (4) of this section  
4 shall be terminated ninety (90) days after sine die adjournment of the next regular  
5 session of the General Assembly unless otherwise specified by the General  
6 Assembly. The Governor, the Kentucky Economic Development Partnership as  
7 created in KRS 154.10-010, or other officer who promulgated a temporary  
8 reorganization plan under this section shall recommend legislation to the General  
9 Assembly to confirm the temporary reorganization plan. The subject matter of each  
10 executive order relating to reorganization shall be presented to the General  
11 Assembly in a separate bill. If the General Assembly fails to enact the temporary  
12 reorganization plan or an alternative to such plan, the organizational structure that  
13 existed immediately prior to the implementation of the temporary plan shall be  
14 reinstated upon the termination of the temporary plan. If the General Assembly fails  
15 to enact a temporary reorganization plan, the Governor, the Kentucky Economic  
16 Development Partnership as created in KRS 154.10-010, and other elected state  
17 executive officers shall not effect the plan prior to the next succeeding session of  
18 the General Assembly.

19 (6) The Legislative Research Commission or the Legislative Oversight~~[legislative~~  
20 ~~program review]~~ and Investigations Committee~~[investigations committee]~~ may  
21 monitor the implementation of any reorganization plan to determine the extent to  
22 which the anticipated improvements in economy, efficiency, or administration have  
23 been realized as a result of the reorganization and shall report its findings to the  
24 General Assembly.

25 (7) Funds transferred due to reorganization shall be maintained in separately designated  
26 accounts. Any excess funds resulting from a reorganization shall lapse to the  
27 general fund surplus account.

1           ➔Section 10. KRS 620.055 is amended to read as follows:

- 2       (1) An external child fatality and near fatality review panel is hereby created and  
3           established for the purpose of conducting comprehensive reviews of child fatalities  
4           and near fatalities, reported to the Cabinet for Health and Family Services,  
5           suspected to be a result of abuse or neglect. The panel shall be attached to the  
6           Justice and Public Safety Cabinet for staff and administrative purposes.
- 7       (2) The external child fatality and near fatality review panel shall be composed of the  
8           following five (5) ex officio nonvoting members and fifteen (15) voting members:
- 9           (a) The chairperson of the House Health and Welfare Committee of the Kentucky  
10           General Assembly, who shall be an ex officio nonvoting member;
- 11           (b) The chairperson of the Senate Health and Welfare Committee of the Kentucky  
12           General Assembly, who shall be an ex officio nonvoting member;
- 13           (c) The commissioner of the Department for Community Based Services, who  
14           shall be an ex officio nonvoting member;
- 15           (d) The commissioner of the Department for Public Health, who shall be an ex  
16           officio nonvoting member;
- 17           (e) A family court judge selected by the Chief Justice of the Kentucky Supreme  
18           Court, who shall be an ex officio nonvoting member;
- 19           (f) A pediatrician from the University of Kentucky's Department of Pediatrics  
20           who is licensed and experienced in forensic medicine relating to child abuse  
21           and neglect to be selected by the Attorney General from a list of three (3)  
22           names provided by the dean of the University of Kentucky School of  
23           Medicine;
- 24           (g) A pediatrician from the University of Louisville's Department of Pediatrics  
25           who is licensed and experienced in forensic medicine relating to child abuse  
26           and neglect to be selected by the Attorney General from a list of three (3)  
27           names provided by the dean of the University of Louisville School of

- 1 Medicine;
- 2 (h) The state medical examiner or designee;
- 3 (i) A court-appointed special advocate (CASA) program director to be selected  
4 by the Attorney General from a list of three (3) names provided by the  
5 Kentucky CASA Association;
- 6 (j) A peace officer with experience investigating child abuse and neglect fatalities  
7 and near fatalities to be selected by the Attorney General from a list of three  
8 (3) names provided by the commissioner of the Kentucky State Police;
- 9 (k) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by  
10 the Attorney General from a list of three (3) names provided by the president  
11 of the Prevent Child Abuse Kentucky, Inc. board of directors;
- 12 (l) A practicing local prosecutor to be selected by the Attorney General;
- 13 (m) The executive director of the Kentucky Domestic Violence Association or the  
14 executive director's designee;
- 15 (n) The chairperson of the State Child Fatality Review Team established in  
16 accordance with KRS 211.684 or the chairperson's designee;
- 17 (o) A practicing social work clinician to be selected by the Attorney General from  
18 a list of three (3) names provided by the Board of Social Work;
- 19 (p) A practicing addiction counselor to be selected by the Attorney General from  
20 a list of three (3) names provided by the Kentucky Association of Addiction  
21 Professionals;
- 22 (q) A representative from the family resource and youth service centers to be  
23 selected by the Attorney General from a list of three (3) names submitted by  
24 the Cabinet for Health and Family Services;
- 25 (r) A representative of a community mental health center to be selected by the  
26 Attorney General from a list of three (3) names provided by the Kentucky  
27 Association of Regional Mental Health and Mental Retardation Programs,

- 1           Inc.;
- 2           (s) A member of a citizen foster care review board selected by the Chief Justice
- 3           of the Kentucky Supreme Court; and
- 4           (t) An at-large representative who shall serve as chairperson to be selected by the
- 5           Secretary of State.
- 6       (3) (a) By August 1, 2013, the appointing authority or the appointing authorities, as
- 7           the case may be, shall have appointed panel members. Initial terms of
- 8           members, other than those serving ex officio, shall be staggered to provide
- 9           continuity. Initial appointments shall be: five (5) members for terms of one (1)
- 10          year, five (5) members for terms of two (2) years, and five (5) members for
- 11          terms of three (3) years, these terms to expire, in each instance, on June 30
- 12          and thereafter until a successor is appointed and accepts appointment.
- 13       (b) Upon the expiration of these initial staggered terms, successors shall be
- 14          appointed by the respective appointing authorities, for terms of two (2) years,
- 15          and until successors are appointed and accept their appointments. Members
- 16          shall be eligible for reappointment. Vacancies in the membership of the panel
- 17          shall be filled in the same manner as the original appointments.
- 18       (c) At any time, a panel member shall recuse himself or herself from the review
- 19          of a case if the panel member believes he or she has a personal or private
- 20          conflict of interest.
- 21       (d) If a voting panel member is absent from two (2) or more consecutive,
- 22          regularly scheduled meetings, the member shall be considered to have
- 23          resigned and shall be replaced with a new member in the same manner as the
- 24          original appointment.
- 25       (e) If a voting panel member is proven to have violated subsection (13) of this
- 26          section, the member shall be removed from the panel, and the member shall
- 27          be replaced with a new member in the same manner as the original

1 appointment.

2 (4) The panel shall meet at least quarterly and may meet upon the call of the  
3 chairperson of the panel.

4 (5) Members of the panel shall receive no compensation for their duties related to the  
5 panel, but may be reimbursed for expenses incurred in accordance with state  
6 guidelines and administrative regulations.

7 (6) Each panel member shall be provided copies of all information set out in this  
8 subsection, including but not limited to records and information, upon request, to be  
9 gathered, unredacted, and submitted to the panel within thirty (30) days by the  
10 Cabinet for Health and Family Services from the Department for Community Based  
11 Services or any agency, organization, or entity involved with a child subject to a  
12 fatality or near fatality:

13 (a) Cabinet for Health and Family Services records and documentation regarding  
14 the deceased or injured child and his or her caregivers, residents of the home,  
15 and persons supervising the child at the time of the incident that include all  
16 records and documentation set out in this paragraph:

- 17 1. All prior and ongoing investigations, services, or contacts;  
18 2. Any and all records of services to the family provided by agencies or  
19 individuals contracted by the Cabinet for Health and Family Services;  
20 and  
21 3. All documentation of actions taken as a result of child fatality internal  
22 reviews conducted pursuant to KRS 620.050(12)(b);

23 (b) Licensing reports from the Cabinet for Health and Family Services, Office of  
24 Inspector General, if an incident occurred in a licensed facility;

25 (c) All available records regarding protective services provided out of state;

26 (d) All records of services provided by the Department for Juvenile Justice  
27 regarding the deceased or injured child and his or her caregivers, residents of

1 the home, and persons involved with the child at the time of the incident;

2 (e) Autopsy reports;

3 (f) Emergency medical service, fire department, law enforcement, coroner, and  
4 other first responder reports, including but not limited to photos and  
5 interviews with family members and witnesses;

6 (g) Medical records regarding the deceased or injured child, including but not  
7 limited to all records and documentation set out in this paragraph:

8 1. Primary care records, including progress notes; developmental  
9 milestones; growth charts that include head circumference; all laboratory  
10 and X-ray requests and results; and birth record that includes record of  
11 delivery type, complications, and initial physical exam of baby;

12 2. In-home provider care notes about observations of the family, bonding,  
13 others in home, and concerns;

14 3. Hospitalization and emergency department records;

15 4. Dental records;

16 5. Specialist records; and

17 6. All photographs of injuries of the child that are available;

18 (h) Educational records of the deceased or injured child, or other children residing  
19 in the home where the incident occurred, including but not limited to the  
20 records and documents set out in this paragraph:

21 1. Attendance records;

22 2. Special education services;

23 3. School-based health records; and

24 4. Documentation of any interaction and services provided to the children  
25 and family.

26 The release of educational records shall be in compliance with the Family  
27 Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its

- 1 implementing regulations;
- 2 (i) Head Start records or records from any other child care or early child care  
3 provider;
- 4 (j) Records of any Family, Circuit, or District Court involvement with the  
5 deceased or injured child and his or her caregivers, residents of the home and  
6 persons involved with the child at the time of the incident that include but are  
7 not limited to the juvenile and family court records and orders set out in this  
8 paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
- 9 1. Petitions;
- 10 2. Court reports by the Department for Community Based Services,  
11 guardian ad litem, court-appointed special advocate, and the Citizen  
12 Foster Care Review Board;
- 13 3. All orders of the court, including temporary, dispositional, or  
14 adjudicatory; and
- 15 4. Documentation of annual or any other review by the court;
- 16 (k) Home visit records from the Department for Public Health or other services;
- 17 (l) All information on prior allegations of abuse or neglect and deaths of children  
18 of adults residing in the household;
- 19 (m) All law enforcement records and documentation regarding the deceased or  
20 injured child and his or her caregivers, residents of the home, and persons  
21 involved with the child at the time of the incident; and
- 22 (n) Mental health records regarding the deceased or injured child and his or her  
23 caregivers, residents of the home, and persons involved with the child at the  
24 time of the incident.
- 25 (7) The panel may seek the advice of experts, such as persons specializing in the fields  
26 of psychiatric and forensic medicine, nursing, psychology, social work, education,  
27 law enforcement, family law, or other related fields, if the facts of a case warrant

1 additional expertise.

2 (8) The panel shall post updates after each meeting to the Web site of the Justice and  
3 Public Safety Cabinet regarding case reviews, findings, and recommendations.

4 (9) The panel chairperson, or other requested persons, shall report a summary of the  
5 panel's discussions and proposed or actual recommendations to the Interim Joint  
6 Committee on Health and Welfare of the Kentucky General Assembly monthly or at  
7 the request of a committee co-chair. The goal of the committee shall be to ensure  
8 impartiality regarding the operations of the panel during its review process.

9 (10) The panel shall publish an annual report by December 1 of each year consisting of  
10 case reviews, findings, and recommendations for system and process improvements  
11 to help prevent child fatalities and near fatalities that are due to abuse and neglect.  
12 The report shall be submitted to the Governor, the secretary of the Cabinet for  
13 Health and Family Services, the Chief Justice of the Supreme Court, the Attorney  
14 General, and the director of the Legislative Research Commission for distribution to  
15 the Child Welfare Oversight and Advisory Committee established in KRS 6.943  
16 and the Judiciary Committee.

17 (11) Information and record copies that are confidential under state or federal law and  
18 are provided to the external child fatality and near fatality review panel by the  
19 Cabinet for Health and Family Services, the Department for Community Based  
20 Services, or any agency, organization, or entity for review shall not become the  
21 information and records of the panel and shall not lose their confidentiality by virtue  
22 of the panel's access to the information and records. The original information and  
23 records used to generate information and record copies provided to the panel in  
24 accordance with subsection (6) of this section shall be maintained by the  
25 appropriate agency in accordance with state and federal law and shall be subject to  
26 the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests  
27 shall be made to the appropriate agency, not to the external child fatality and near

1 fatality review panel or any of the panel members. Information and record copies  
2 provided to the panel for review shall be exempt from the Kentucky Open Records  
3 Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies  
4 of information and records provided to the panel involving an individual case shall  
5 be destroyed by the Justice and Public Safety Cabinet.

6 (12) Notwithstanding any provision of law to the contrary, the portions of the external  
7 child fatality and near fatality review panel meetings during which an individual  
8 child fatality or near fatality case is reviewed or discussed by panel members may  
9 be a closed session and subject to the provisions of KRS 61.815(1) and shall only  
10 occur following the conclusion of an open session. At the conclusion of the closed  
11 session, the panel shall immediately convene an open session and give a summary  
12 of what occurred during the closed session.

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

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

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

1 (16) Beginning in 2014 the Legislative Oversight~~[Program Review]~~ and Investigations  
2 Committee of the Kentucky General Assembly shall conduct an annual evaluation  
3 of the external child fatality and near fatality review panel established pursuant to  
4 this section to monitor the operations, procedures, and recommendations of the  
5 panel and shall report its findings to the General Assembly.

6 ➔Section 11. Whereas the General Assembly's role in financial oversight is vital  
7 to the efficient operation of state government, an emergency is declared to exist, and this  
8 Act takes effect upon its passage and approval by the Governor or upon its otherwise  
9 becoming law.