

1 AN ACT relating to child abuse.

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

3 ➔Section 1. KRS 69.210 is amended to read as follows:

4 (1) The county attorney shall attend the fiscal court or consolidated local government
5 and conduct all business touching the rights or interests of the county or
6 consolidated local government, and when so directed by the fiscal court or
7 consolidated local government, he or she shall institute, defend, and conduct all
8 civil actions in which the county or consolidated local government is interested
9 before any of the courts of the Commonwealth.

10 (2) (a) The county attorney shall attend to the prosecution in the juvenile session of
11 the District Court of all proceedings held pursuant to petitions filed under
12 KRS Chapter 610 and over which the juvenile session of the District Court
13 has jurisdiction pursuant to KRS Chapter 610.

14 (b) *Notwithstanding paragraph (a) of this subsection, the attorneys for the*
15 *Cabinet for Health and Family Services may attend to the prosecution of*
16 *any case under KRS Chapter 620 upon written notice to the county attorney*
17 *and judge of the District Court or family division of the Circuit Court.*

18 (3) The county attorney shall give legal advice to the fiscal court or consolidated local
19 government and the several county or consolidated local government officers in all
20 matters concerning any county or consolidated local government business within
21 their jurisdiction. He or she shall oppose all unjust or illegally presented claims.

22 (4) A county attorney serving in a county, consolidated local government, or urban-
23 county which is part of a judicial circuit described by KRS 69.010(2), in addition to
24 the duties in subsections (1) and (2) of this section, shall have the following duties:

25 (a) He or she shall attend all civil cases and proceedings in his or her county in
26 which the Commonwealth is interested; and

27 (b) He or she shall advise the collector of money due the Commonwealth in the

1 county or consolidated local government in regard to motions against
2 delinquent collecting officers for failing to return executions, and shall
3 prosecute the motions. In no case shall the county attorney take a fee or act as
4 counsel in any case in opposition to the interest of the county or consolidated
5 local government.

6 ➔Section 2. KRS 620.030 is amended to read as follows:

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

20 (2) (a) Any person, including but not limited to a physician, osteopathic physician,
21 nurse, teacher, school personnel, social worker, coroner, medical examiner,
22 child-caring personnel, resident, intern, chiropractor, dentist, optometrist,
23 emergency medical technician, paramedic, health professional, mental health
24 professional, peace officer, or any organization or agency for any of the
25 above, who knows or has reasonable cause to believe that a child is
26 dependent, neglected, or abused, regardless of whether the person believed to
27 have caused the dependency, neglect, or abuse is a parent, guardian, fictive

1 kin, person in a position of authority, person in a position of special trust,
 2 person exercising custodial control or supervision, or another person, or who
 3 has attended such child as a part of his or her professional duties, shall:

4 **1. Immediately make an oral report in accordance with subsection (1) of**
 5 **this section;**

6 **2. Immediately notify the supervisor of the institution, school, facility,**
 7 **agency, or designated agent of the person in charge; and,**

8 **3.** If requested, in addition to the report required in subsection (1) or (3) of
 9 this section, file with the local law enforcement agency or the
 10 Department of Kentucky State Police, the cabinet or its designated
 11 representative, the Commonwealth's attorney, or county attorney within
 12 forty-eight (48) hours of the original report a written report containing:

13 **a.**~~(a)~~ The names and addresses of the child and his or her parents
 14 or other persons exercising custodial control or supervision;

15 **b.**~~(b)~~ The child's age;

16 **c.**~~(c)~~ The nature and extent of the child's alleged dependency,
 17 neglect, or abuse, including any previous charges of dependency,
 18 neglect, or abuse, to this child or his or her siblings;

19 **d.**~~(d)~~ The name and address of the person allegedly responsible for
 20 the abuse or neglect; and

21 **e.**~~(e)~~ Any other information that the person making the report
 22 believes may be helpful in the furtherance of the purpose of this
 23 section.

24 **(b) Upon notification, the supervisor or the designated agent, if any, shall**
 25 **facilitate the cooperation of the institution, school, facility, or agency with**
 26 **the investigation of the report.**

27 **(c) Any person who knowingly causes intimidation, retaliation, or obstruction**

1 *in the investigation of the report shall be guilty of a Class A misdemeanor.*

2 *(d) This section shall not require more than one (1) report from any institution,*
3 *school, facility, or agency.*

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

13 (4) Any person who knows or has reasonable cause to believe that a child is a victim of
14 female genital mutilation as defined in KRS 508.125 shall immediately cause an
15 oral or written report to be made by telephone or otherwise to:

16 (a) A local law enforcement agency or the Department of Kentucky State Police;

17 (b) The cabinet or its designated representative; or

18 (c) The Commonwealth's attorney or the county attorney.

19 This subsection shall apply regardless of whether the person believed to have
20 caused the female genital mutilation of the child is a parent, guardian, or person
21 exercising custodial control or supervision.

22 (5) Neither the husband-wife nor any professional-client/patient privilege, except the
23 attorney-client and clergy-penitent privilege, shall be a ground for refusing to report
24 under this section or for excluding evidence regarding a dependent, neglected, or
25 abused child or the cause thereof, in any judicial proceedings resulting from a report
26 pursuant to this section. This subsection shall also apply in any criminal proceeding
27 in District or Circuit Court regarding a dependent, neglected, or abused child.

- 1 (6) 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 (7) Nothing in this section shall limit the cabinet's investigatory authority under KRS
6 620.050 or any other obligation imposed by law.
- 7 (8) Any person who intentionally violates the provisions of this section shall be guilty
8 of a:
- 9 (a) Class B misdemeanor for the first offense;
10 (b) Class A misdemeanor for the second offense; and
11 (c) Class D felony for each subsequent offense.
- 12 ➔Section 3. KRS 620.040 is amended to read as follows:
- 13 (1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian,
14 fictive kin, person in a position of authority, person in a position of special
15 trust, or person exercising custodial control or supervision, pursuant to KRS
16 620.030(1) or (2), or a report alleging a child is a victim of human trafficking
17 pursuant to KRS 620.030(3), the recipient of the report shall immediately
18 notify the cabinet or its designated representative, the local law enforcement
19 agency or the Department of Kentucky State Police, and the Commonwealth's
20 or county attorney of the receipt of the report~~[unless they are the reporting~~
21 ~~source]~~. **If any agency listed above is the reporting source, the recipient**
22 **shall immediately notify the cabinet or its designated representative, the**
23 **local law enforcement agency, the Department of Kentucky State Police,**
24 **and the Commonwealth's or county attorney of the receipt of the report.**
- 25 (b) Based upon the allegation in the report, the cabinet shall immediately make an
26 initial determination as to the risk of harm and immediate safety of the child.
27 Based upon the level of risk determined, the cabinet shall investigate the

1 allegation or accept the report for an assessment of family needs and, if
2 appropriate, may provide or make referral to any community-based services
3 necessary to reduce risk to the child and to provide family support. A report of
4 sexual abuse or human trafficking of a child shall be considered high risk and
5 shall not be referred to any other community agency.

6 (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and
7 holidays, make a written report to the Commonwealth's or county attorney
8 and the local law enforcement agency or the Department of Kentucky State
9 Police concerning the action that has been taken on the investigation.

10 (d) If the report alleges abuse or neglect by someone other than a parent,
11 guardian, fictive kin, person in a position of authority, person in a position of
12 special trust, or person exercising custodial control or supervision, or the
13 human trafficking of a child, the cabinet shall immediately notify the
14 Commonwealth's or county attorney and the local law enforcement agency or
15 the Department of Kentucky State Police.

16 (2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and
17 (2), the recipient shall immediately notify the cabinet or its designated
18 representative.

19 (b) Based upon the allegation in the report, the cabinet shall immediately make an
20 initial determination as to the risk of harm and immediate safety of the child.
21 Based upon the level of risk, the cabinet shall investigate the allegation or
22 accept the report for an assessment of family needs and, if appropriate, may
23 provide or make referral to any community-based services necessary to reduce
24 risk to the child and to provide family support. A report of sexual abuse or
25 human trafficking of a child shall be considered high risk and shall not be
26 referred to any other community agency.

27 (c) The cabinet need not notify the local law enforcement agency or the

1 Department of Kentucky State Police or Commonwealth's or county attorney~~]~~
2 ~~or Commonwealth's attorney]~~ of reports made under this subsection unless the
3 report involves the human trafficking of a child, in which case the notification
4 shall be required.

5 (3) If the cabinet or its designated representative receives a report of abuse by a person
6 other than a parent, guardian, fictive kin, person in a position of authority, person in
7 a position of special trust, or other person exercising custodial control or
8 supervision of a child, it shall immediately notify the local law enforcement agency
9 or the Department of Kentucky State Police and the Commonwealth's or county
10 attorney of the receipt of the report and its contents, and they shall investigate the
11 matter. The cabinet or its designated representative shall participate in an
12 investigation of noncustodial physical abuse or neglect at the request of the local
13 law enforcement agency or the Department of Kentucky State Police. The cabinet
14 shall participate in all investigations of reported or suspected sexual abuse or human
15 trafficking of a child.

16 (4) School personnel or other persons listed in KRS 620.030(2) do not have the
17 authority to conduct internal investigations in lieu of the official investigations
18 outlined in this section.

19 (5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its
20 designated representative cannot gain admission to the location of the child, a
21 search warrant shall be requested from, and may be issued by, the judge to the
22 appropriate law enforcement official upon probable cause that the child is
23 dependent, neglected, or abused. If, pursuant to a search under a warrant, a
24 child is discovered and appears to be in imminent danger, the child may be
25 removed by the law enforcement officer.

26 (b) If a child who is in a hospital or under the immediate care of a physician
27 appears to be in imminent danger if he or she is returned to the persons having

1 custody of him or her, the physician or hospital administrator may hold the
2 child without court order, provided that a request is made to the court for an
3 emergency custody order at the earliest practicable time, not to exceed
4 seventy-two (72) hours.

5 (c) Any appropriate law enforcement officer may take a child into protective
6 custody and may hold that child in protective custody without the consent of
7 the parent or other person exercising custodial control or supervision if there
8 exist reasonable grounds for the officer to believe that the child is in danger of
9 imminent death or serious physical injury, is being sexually abused, or is a
10 victim of human trafficking and that the parents or other person exercising
11 custodial control or supervision are unable or unwilling to protect the child.
12 The officer or the person to whom the officer entrusts the child shall, within
13 twelve (12) hours of taking the child into protective custody, request the court
14 to issue an emergency custody order.

15 (d) When a law enforcement officer, hospital administrator, or physician takes a
16 child into custody without the consent of the parent or other person exercising
17 custodial control or supervision, he or she shall provide written notice to the
18 parent or other person stating the reasons for removal of the child. Failure of
19 the parent or other person to receive notice shall not, by itself, be cause for
20 civil or criminal liability.

21 (e) 1. If a report includes a child fatality or near fatality, and the law
22 enforcement officer has reasonable grounds to believe any parent or
23 person exercising custodial control or supervision of the child was under
24 the influence of alcohol or drugs at the time the fatality or near fatality
25 occurred, the law enforcement officer shall request a test of blood,
26 breath, or urine from that person.

27 2. If, after making the request, consent is not given for the test of blood,

1 breath, or urine, a search warrant shall be requested from and may be
2 issued by the judge to the appropriate law enforcement official upon
3 probable cause that a child fatality or near fatality has occurred and that
4 the person exercising custodial control or supervision of the child at the
5 time of the fatality or near fatality was under the influence.

6 3. Any test requested under this section shall be conducted pursuant to the
7 testing procedures and requirements in KRS 189A.103.

8 (6) To the extent practicable and when in the best interest of a child alleged to have
9 been abused, interviews with the child shall be conducted at a children's advocacy
10 center.

11 (7) (a) One (1) or more multidisciplinary teams may be established in every county
12 or group of contiguous counties.

13 (b) Membership of the multidisciplinary team shall include but shall not be
14 limited to social service workers employed by the Cabinet for Health and
15 Family Services and law enforcement officers. Additional team members may
16 include Commonwealth's and county attorneys, children's advocacy center
17 staff, mental health professionals, medical professionals, victim advocates
18 including advocates for victims of human trafficking, educators, and other
19 related professionals, as deemed appropriate.

20 (c) The multidisciplinary team shall review child sexual abuse cases and child
21 human trafficking cases involving commercial sexual activity referred by
22 participating professionals, including those in which the alleged perpetrator
23 does not have custodial control or supervision of the child or is not
24 responsible for the child's welfare. The purpose of the multidisciplinary team
25 shall be to review investigations, assess service delivery, and to facilitate
26 efficient and appropriate disposition of cases through the criminal justice
27 system.

- 1 (d) The team shall hold regularly scheduled meetings if new reports of sexual
2 abuse or child human trafficking cases involving commercial sexual activity
3 are received or if active cases exist. At each meeting, each active case shall be
4 presented and the agencies' responses assessed.
- 5 (e) The multidisciplinary team shall provide an annual report to the public of
6 nonidentifying case information to allow assessment of the processing and
7 disposition of child sexual abuse cases and child human trafficking cases
8 involving commercial sexual activity.
- 9 (f) Multidisciplinary team members and anyone invited by the multidisciplinary
10 team to participate in a meeting shall not divulge case information, including
11 information regarding the identity of the victim or source of the report. Team
12 members and others attending meetings shall sign a confidentiality statement
13 that is consistent with statutory prohibitions on disclosure of this information.
- 14 (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660,
15 develop a local protocol consistent with the model protocol issued by the
16 Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local
17 team shall submit the protocol to the commission for review and approval.
- 18 (h) The multidisciplinary team review of a case may include information from
19 reports generated by agencies, organizations, or individuals that are
20 responsible for investigation, prosecution, or treatment in the case, KRS
21 610.320 to KRS 610.340 notwithstanding.
- 22 (i) To the extent practicable, multidisciplinary teams shall be staffed by the local
23 children's advocacy center.
- 24 (8) Nothing in this section shall limit the cabinet's investigatory authority under KRS
25 620.050 or any other obligation imposed by law.
- 26 ➔Section 4. KRS 620.072 is amended to read as follows:
- 27 (1) If the cabinet's initial determination as to the risk of harm to and immediate safety

- 1 of an alleged abused or neglected child as defined in KRS 600.020 requires an
2 investigation or assessment pursuant to administrative regulations promulgated by
3 the cabinet, including consideration of information on the nature and extent of a
4 present danger or threat of danger to the child or cabinet staff, and if the
5 investigation or assessment requires a visit to the residence or location where the
6 reported abuse or neglect occurred, the cabinet shall make the visit unannounced, in
7 addition to any other actions taken to protect the child.
- 8 (2) If the initial visit is necessary, after it is completed, the cabinet shall incorporate
9 unannounced visits with any necessary scheduled visits until the welfare of the
10 child has been safeguarded in accordance with administrative regulations
11 promulgated by the cabinet.
- 12 (3) If there is reason to believe a child is in imminent danger, or if a parent or caretaker
13 of a child refuses the cabinet entry to a child's home or refuses to allow a child to be
14 interviewed, the cabinet may request assistance:
- 15 (a) From law enforcement; or
16 (b) Through a request for a court order pursuant to KRS 620.040(5)(a).
- 17 (4) A school or a child-care provider shall provide the cabinet access to a child subject
18 to an investigation or assessment without parental consent.