

1 AN ACT relating to offices within the Auditor of Public Accounts and declaring an
2 emergency.

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

4 ➔Section 1. KRS 43.010 is amended to read as follows:

5 As used in this chapter, unless the context requires otherwise:

6 (1) "Auditor" means the Auditor of Public Accounts;~~[-]~~

7 (2) "Budget unit" means a department or other unit of organization for which separate
8 appropriations are made from those for any other organization unit;~~[-]~~

9 (3) **"Deputy auditor" means the deputy auditor of public accounts appointed**
10 **pursuant to Section 2 of this Act;**

11 **(4) "Ombudsman" means the executive director of the Commonwealth Office of the**
12 **Ombudsman appointed pursuant to Section 3 of this Act;**

13 **(5)** "State agency" means any state officer, department, board, commission, institution,
14 division, or other person or functional group that is authorized to exercise or does
15 exercise any executive or administrative jurisdiction, powers, duties, rights or
16 obligations of the state government conferred or imposed by law or exercised,
17 performed, or discharged by legal authority in compliance with law;**and**~~[-]~~

18 ~~**(6)**~~~~[(4)]~~ "Writing" or "written" means letters, words, or numbers, or their equivalent,
19 set down by handwriting, typewriting, printing, photostating, photographing,
20 magnetic impulse, mechanical or electronic recording, or other form of data
21 compilation.

22 ➔Section 2. KRS 43.030 is amended to read as follows:

23 (1) The Auditor shall appoint for the duration of his or her own term, subject to
24 removal by the Auditor at any time, one (1) **deputy**~~assistant~~ auditor ~~of public~~
25 ~~accounts~~, who shall be a certified public accountant and who has been a citizen and
26 resident of the state for at least two (2) years. Except for the Office of the
27 Ombudsman as established in KRS 43.035, the **deputy**~~assistant~~ auditor shall have

1 direct supervision over all technical work and technical assistants, and shall
2 otherwise aid the Auditor in the performance of his or her duties, except that the
3 deputy~~[assistant]~~ auditor ~~[of public accounts]~~ may exercise a full or partial recusal
4 from this supervision requirement in regard to the consulting function authorized in
5 KRS 43.050 if needed to comply with the professional standards of accountancy. If
6 the Auditor is absent or is rendered incapable of performing his or her duties, or if a
7 vacancy in the office occurs, the deputy~~[assistant]~~ auditor shall perform the duties
8 of Auditor until the necessity therefor ceases to exist. He or she shall take the
9 constitutional oath.

10 (2) The Auditor may employ other subordinate personnel subject to the provisions of
11 KRS 12.060. All employees with status as defined in KRS 18A.005 operating
12 under the authority of the deputy auditor who are engaged in auditing or
13 investigations shall possess a minimum of a four (4) year college degree. No less
14 than ninety percent (90%) of all employees engaged in financial auditing or
15 financial investigations shall have twenty (20) semester hours or thirty (30) quarter
16 hours of accounting, or alternately, shall be a certified public accountant. Not more
17 than two (2) persons charged with the conduct of audits and investigations may
18 substitute year-for-year responsible experience acceptable to the Personnel Cabinet
19 for the required college education and accounting hours.

20 (3) The Auditor and his or her sureties are liable on his or her official bond for the acts
21 of the deputy~~[assistant]~~ auditor and clerks.

22 (4) Nothing in this section shall be deemed to affect the provisions of KRS 11.090 or
23 other legislation authorizing audits.

24 ➔Section 3. KRS 43.035 is amended to read as follows:

25 (1) The Commonwealth Office of the Ombudsman is hereby created as an office
26 within~~[and is an independent office that shall be administratively attached to]~~ the
27 Auditor of Public Accounts. The Auditor shall appoint an executive director of the

1 Commonwealth Office of the Ombudsman, *who shall serve as the ombudsman*
2 *and be responsible for overseeing the operations of the office.*

3 **(2)** The Commonwealth Office of the Ombudsman shall:

4 ~~(a)~~⁽¹⁾ Investigate, upon complaint or on its own initiative, any administrative
5 act *or inaction* of an organizational unit, employee, or contractor of the
6 Cabinet for Health and Family Services without regard to the finality of the
7 administrative act *or inaction*. Organizational units, employees, or contractors
8 of the Cabinet for Health and Family Services shall not willfully obstruct an
9 investigation, restrict access to records or personnel, or retaliate against a
10 complainant or cabinet employee;

11 ~~(b)~~⁽²⁾ Make recommendations that resolve citizen complaints about the
12 Cabinet for Health and Family Services and improve the cabinet's
13 performance and may require corrective action when policy violations are
14 identified;

15 ~~(c)~~⁽³⁾ Provide evaluation and information analysis of the Cabinet for Health
16 and Family Service's performance and compliance with state and federal law;

17 ~~(d)~~⁽⁴⁾ Place an emphasis on research and best practices, program
18 accountability, quality service delivery, and improved performance of the
19 Cabinet for Health and Family Services;

20 ~~(e)~~⁽⁵⁾ Provide information on how to contact the office *in poster, brochure,*
21 *pamphlet, or other format to the Cabinet for Health and Family Services,*
22 *which shall print and publicly post or otherwise make the information*
23 *available*~~for public posting~~ at all offices where Department for Community
24 Based Services of the Cabinet for Health and Family Services employees or
25 contractors work, at any facility where a child in the custody of the cabinet
26 resides, and to all cabinet or contracted foster parents *in a manner approved*
27 *by the ombudsman;*

1 ~~(f)(6)~~ Report to the Cabinet for Health and Family Services, Office of
 2 Inspector General for review and investigation:

3 ~~1.(a)~~ Any charge or case against an employee of the Cabinet for Health
 4 and Family Services where it has cause to believe the employee has
 5 engaged in dishonest, unethical, or illegal conduct or practices related to
 6 his or her job duties; or

7 ~~2.(b)~~ A violation of state law or administrative regulation by any
 8 organization or individual regulated by or contracted with the cabinet;

9 ~~(g)(7)~~ Compile a report of all citizen complaints about programs or services of
 10 the Cabinet for Health and Family Services and a summary of resolution of
 11 the complaints and submit the report upon request to the Interim Joint
 12 Committee on Health Services and the Interim Joint Committee on Families
 13 and Children;~~and~~

14 ~~(h)(8)~~ Provide information to the Office of the Attorney General, when
 15 requested, related to substantiated violations of state law against an employee
 16 or contractor of the Cabinet for Health and Family Services or a foster or
 17 adoptive parent;

18 ~~(i)~~ Notwithstanding any other provision of law, maintain confidentiality except
 19 when disclosures may be advisable in the ombudsman's judgement to
 20 enable the office to carry out its duties and to support recommendations;
 21 and

22 ~~(j)~~ Promulgate administrative regulations in accordance with KRS Chapter
 23 13A necessary to perform its duties as specified in this chapter.

24 ~~(3)~~ Any expense incurred by the Commonwealth Office of the Ombudsman for
 25 discretionary investigations, reviews, evaluations, information analysis, or other
 26 work performed under this section at the direction of the ombudsman shall be
 27 charged to the entity that is the subject of that work at the same rate as

1 established by the Auditor for audit work done pursuant to KRS 43.050. The
 2 Commonwealth Office of the Ombudsman shall maintain records of all time and
 3 expenses for such work.

4 ➔Section 4. KRS 43.040 is amended to read as follows:

5 (1) Upon the expiration of the Auditor's term of office, the Auditor shall file a
 6 certification of the inventory of the office with the Secretary of State and shall
 7 deliver the inventory to the Auditor's successor.

8 (2) In the event of a vacancy in the office of Auditor, the deputy~~assistant~~ auditor ~~of~~
 9 ~~public accounts~~ shall file a certification of the inventory of the office with the
 10 Secretary of State and shall deliver the inventory to the Auditor's successor.

11 ➔Section 5. KRS 43.080 is amended to read as follows:

12 (1) The Auditor ~~and his authorized agents~~ shall have access to and may examine all
 13 books, accounts, reports, vouchers, correspondence files, records, money and
 14 property of any state agency. Every officer or employee of any such agency having
 15 such records or property in his or her possession or under his or her control shall
 16 permit access to and examination of them upon the request of the Auditor ~~or any~~
 17 ~~agent authorized by him to make such request~~.

18 (2) The Auditor ~~and his assistants~~ shall have access at all times to the papers, books,
 19 and records of the asylums, prisons, institutions for the intellectually disabled and
 20 eleemosynary institutions, and public works that he or she is authorized to examine,
 21 and of any county officer who receives or disburses county funds.

22 (3) The Auditor may require information on oath from any person touching any matters
 23 relative to any account or matter that the Auditor is required or authorized to state,
 24 audit, investigate, review, or settle. The Auditor may administer the oath ~~himself~~,
 25 or have it done by any officer authorized to administer an oath.

26 (4) The Auditor ~~and his assistants~~ may issue process and compel the attendance of
 27 witnesses ~~before them,~~ and administer oaths and compel witnesses to testify in

1 any of the audits, reviews, or investigations the Auditor is authorized to make.

2 **(5) Every state agency shall provide at no cost to the Auditor any software and access**
3 **rights that the Auditor deems advisable to view and retrieve any information**
4 **subject to this section. Any cost that may be incurred by providing the Auditor**
5 **with software and access rights shall be borne by the state agency.**

6 **(6) As used in this section, "Auditor" includes:**

7 **(a) The Auditor's authorized agents;**

8 **(b) The deputy auditor; and**

9 **(c) The ombudsman.**

10 ➔Section 6. KRS 43.090 is amended to read as follows:

11 (1) Immediately upon completion of each audit and investigation, except those
12 provided for in KRS 43.070 or Section 3 of this Act, the Auditor shall prepare a
13 report of his or her findings and recommendations. He or she shall furnish one (1)
14 copy of the report to the head of the agency to which the report pertains, one (1)
15 copy to the Governor, one (1) copy to the secretary of the Finance and
16 Administration Cabinet, one (1) copy to the Legislative Research Commission, and
17 one (1) copy to the state librarian. The agency to which an Auditor's draft report
18 pertains shall respond in writing to any adverse or critical audit findings and to any
19 recommendations contained in the draft report within fifteen (15) days of receipt of
20 the draft report. The Auditor shall distribute the agency's response to those entitled
21 by this subsection to a copy of the audit report. Within sixty (60) days of the
22 completion of the final audit or examination report, the agency to which an
23 Auditor's report pertains shall notify the Legislative Research Commission and the
24 Auditor of the audit recommendations it has implemented and of the audit
25 recommendations it has not implemented. The agency shall state the reasons for its
26 failure to implement any recommendation made in the final audit or examination
27 report. All audit reports and agency responses shall be, subject to KRS 61.870 to

1 61.884, posted online in a publicly searchable format.

2 (2) The Auditor shall, within a reasonable time after the examination of each county as
 3 provided in KRS 43.070, make a written report to the Governor, the General
 4 Assembly, the Attorney General, the state librarian, and the fiscal court and county
 5 attorney of the county examined, calling attention in specific terms to any
 6 mismanagement, misconduct, misapplication or illegal appropriation, or
 7 extravagant use of money received or disbursed by any officer of the county
 8 examined. In addition, said report shall be sent to a newspaper having general
 9 circulation in the county examined, and the letter of transmittal accompanying the
 10 report shall be published in said newspaper in accordance with the provisions of
 11 KRS Chapter 424. All audit reports and responses shall be, subject to KRS 61.870
 12 to 61.884, posted online in a publicly searchable format.

13 **(3) Immediately upon completion of each audit, investigation, or review conducted**
 14 **under Section 3 of this Act, the ombudsman shall prepare a report of his or her**
 15 **findings and recommendations and furnish a copy of the report to the head of the**
 16 **agency to which the report pertains. The agency shall respond in writing to any**
 17 **adverse or critical audit findings and to any recommendations contained in the**
 18 **report within fifteen (15) days of receipt of the report. Within sixty (60) days of**
 19 **completion of the final audit, investigation, or draft report, the agency to which**
 20 **the report pertains shall notify the ombudsman of which recommendations have**
 21 **and have not been implemented and shall state in its notice to the ombudsman the**
 22 **reason or reasons for any failure to implement any recommendations.**

23 **(4) The Auditor shall maintain confidentiality, except when disclosure may be**
 24 **advisable in the Auditor's judgment to enable the office to carry out its duties and**
 25 **to support its recommendations.**

26 ➔Section 7. KRS 43.990 is amended to read as follows:

27 (1) Any officer, **employee, or contractor** who prevents, attempts to prevent, or

1 obstructs an audit, examination, or review by the Auditor or his or her agents,
2 under the provisions of this chapter [~~paragraph (c) of subsection (2) of KRS 43.050,~~
3 ~~or of subsection (3) of KRS 43.050~~], into his or her official conduct, or the conduct
4 or condition of the office in his or her charge or with which he or she is connected,
5 ~~except when the office constitutes a state agency,~~ is guilty of a high misdemeanor,
6 and, upon conviction on indictment in the Franklin Circuit Court, shall be fined five
7 hundred dollars (\$500) and removed by the Governor. Any person, other than an
8 officer, who prevents, attempts to prevent or obstructs such an examination shall be
9 fined one thousand dollars (\$1,000).

10 (2) If the Auditor fails or refuses without good cause to perform the duties imposed
11 upon him or her by KRS 43.060, he or she shall be fined not less than two hundred
12 and fifty dollars (\$250) nor more than one thousand dollars (\$1,000) for each
13 offense.

14 (3) Any county officer who prevents, attempts to prevent or obstructs an examination
15 by the Auditor, under KRS 43.070, into his official conduct, or the conduct or
16 condition of the office in his charge or with which he is connected, is guilty of a
17 high misdemeanor, and shall, upon indictment and conviction in the Franklin
18 Circuit Court, be fined five hundred dollars (\$500). Any person, other than a county
19 officer, who prevents, attempts to prevent or obstructs such an examination shall be
20 fined one thousand dollars (\$1,000).

21 (4) Any officer or other person who fails or refuses to permit the access and
22 examination provided for in [~~subsection (1) of]KRS 43.080, or who interferes with
23 such examination, shall be fined not less than one hundred dollars (\$100), or
24 imprisoned in the county jail for not less than one (1) month nor more than twelve
25 (12) months, or both. Each refusal by an officer or other person shall constitute a
26 separate offense.~~

27 (5) Any person who has custody of any papers, books or records of an asylum, prison,

1 institution for the intellectually disabled or eleemosynary institution or public
 2 works, other than a state agency, that the Auditor **and his or her agents are**~~[is]~~
 3 authorized to **audit, examine, or review** under **this chapter**~~[paragraph (e) of~~
 4 ~~subsection (2) of KRS 43.050, under subsection (3) of KRS 43.050, and under~~
 5 ~~subsection (2) of KRS 43.080,]~~ who fails or refuses, when called upon by the
 6 Auditor **or his or her agents** for that purpose, to permit him **or her** to inspect any of
 7 such papers, books or records, shall, upon conviction on indictment in the Franklin
 8 Circuit Court, be fined not more than five hundred dollars (\$500) and be subject to
 9 removal by the Governor.

10 (6) Any person who refuses to be sworn when required ~~[by the Auditor]~~ to be sworn for
 11 the purpose mentioned in subsection (3) of KRS 43.080 shall be fined not more
 12 than one hundred dollars (\$100).

13 (7) Any witness called **pursuant to**~~[by the Auditor under]~~ subsection (4) of KRS
 14 43.080 who fails, without legal excuse, to attend or testify shall be fined not more
 15 than two hundred and fifty dollars (\$250).

16 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO
 17 READ AS FOLLOWS:

18 **The Auditor of Public Accounts shall have the following organizational structure:**

19 **(1) The Office of the State Auditor;**

20 **(2) The Office of the Deputy Auditor, which shall have the following offices:**

21 **(a) Office of Local Government Audits;**

22 **(b) Office of State Government Audits and Technology;**

23 **(c) Office of Special Investigations; and**

24 **(d) Office of Quality Assurance;**

25 **(3) The Office of Planning and Management, which shall have the following**
 26 **divisions:**

27 **(a) Division of Information Technology Services;**

- 1 (b) Division of Financial Management; and
 2 (c) Division of Human Resource Administration;
 3 (4) The Office of Legal and Records Services, which shall contain the Division of
 4 Records Management; and
 5 (5) The Commonwealth Office of the Ombudsman, which shall have the following
 6 offices:
 7 (a) Office of Citizen Services and Policy Integrity;
 8 (b) Office of Program Performance, which shall have the following divisions:
 9 1. Division of Quality Control; and
 10 2. Division of Program Access Compliance;
 11 (c) Office of Professional Integrity and Employee Development; and
 12 (d) Office of Policy and Research.

13 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO
 14 READ AS FOLLOWS:

- 15 (1) The Auditor shall require a national and state criminal background check for
 16 every prospective and current employee, including contract staff, with access to or
 17 use of federal tax information and may enroll employees and contract staff in the
 18 rap back system for continuous monitoring. The criminal background check
 19 required by this subsection shall include a fingerprint check by the Department of
 20 Kentucky State Police and the Federal Bureau of Investigation, pursuant to the
 21 following requirements:
 22 (a) The Auditor shall require each employee and contracted staff member with
 23 access to or use of federal tax information to submit a complete and legible
 24 set of fingerprints to the Department of Kentucky State Police in the
 25 manner deemed appropriate by the Department of Kentucky State Police
 26 and the Federal Bureau of Investigation;
 27 (b) The Department of Kentucky State Police shall submit the fingerprint card

1 to the Federal Bureau of Investigation for a national criminal background
 2 check after a state criminal background check is conducted;

3 (c) The results of a national and state criminal background check shall not be
 4 distributed or otherwise released by the Auditor, except that the Auditor:

5 1. Shall provide an employee with the results of his or her national and
 6 state criminal background check upon request; and

7 2. May introduce the results, under seal, as evidence in a legal
 8 proceeding that involves a challenge to any personnel action taken by
 9 the Auditor based in whole or in part on information contained in the
 10 results; and

11 (d) Any fee charged by the Department of Kentucky State Police or for the
 12 Federal Bureau of Investigation background check or enrollment in the rap
 13 back system shall be an amount no greater than the actual cost of
 14 processing the request and conducting the background check.

15 (2) The Auditor shall promulgate administrative regulations in accordance with KRS
 16 Chapter 13A to implement this section.

17 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 194A IS CREATED
 18 TO READ AS FOLLOWS:

19 (1) The cabinet and any of its departments, divisions, offices, boards, commissions,
 20 and any other organizational unit whether incorporated or attached that
 21 maintains a generally accessible website or for which a generally accessible
 22 website is maintained shall include the following at the top of the webpage and in
 23 a manner approved by the Commonwealth Office of the Ombudsman:

24 (a) A link to the website of the Commonwealth Office of the Ombudsman;

25 (b) The telephone number for the Commonwealth Office of the Ombudsman;

26 and

27 (c) An email address for the Commonwealth Office of the Ombudsman.

1 **(2) The cabinet shall provide the Commonwealth Office of the Ombudsman with**
 2 **read-only access to any group email inboxes where complaints are received so**
 3 **that the Commonwealth Office of the Ombudsman may assist individuals with**
 4 **their complaints.**

5 ➔Section 11. KRS 209.140 is amended to read as follows:

6 **(1)** All information obtained by the department staff or its delegated representative, as a
 7 result of an investigation made pursuant to this chapter, shall not be divulged to
 8 anyone except:

9 ~~(a)(1)~~ Persons suspected of abuse or neglect or exploitation, provided that in
 10 such cases names of informants may be withheld, unless ordered by the court;

11 ~~(b)(2)~~ Persons within the department or cabinet with a legitimate interest or
 12 responsibility related to the case;

13 ~~(c)(3)~~ Other medical, psychological, or social service agencies, or law
 14 enforcement agencies that have a legitimate interest in the case;

15 ~~(d)(4)~~ Cases where a court orders release of such information; ~~and~~

16 ~~(e)(5)~~ The alleged abused or neglected or exploited person; **and**

17 **(f) The Commonwealth Office of the Ombudsman established pursuant to**
 18 **Section 3 of this Act.**

19 **(2) This section shall not be interpreted as prohibiting the Commonwealth Office of**
 20 **the Ombudsman from reporting pursuant to Section 3 of this Act on de-identified**
 21 **information made confidential by this section.**

22 ➔Section 12. KRS 620.050 is amended to read as follows:

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

- 1 false report and does so with malice shall be guilty of a Class A misdemeanor.
- 2 (2) Any employee or designated agent of a children's advocacy center shall be immune
3 from any civil liability arising from performance within the scope of the person's
4 duties as provided in KRS 620.030 to 620.050. Any such person shall have the
5 same immunity with respect to participation in any judicial proceeding. Nothing in
6 this subsection shall limit liability for negligence. Upon the request of an employee
7 or designated agent of a children's advocacy center, the Attorney General shall
8 provide for the defense of any civil action brought against the employee or
9 designated agent as provided under KRS 12.211 to 12.215.
- 10 (3) Neither the husband-wife nor any professional-client/patient privilege, except the
11 attorney-client and clergy-penitent privilege, shall be a ground for refusing to report
12 under this section or for excluding evidence regarding a dependent, neglected, or
13 abused child or the cause thereof, in any judicial proceedings resulting from a report
14 pursuant to this section. This subsection shall also apply in any criminal proceeding
15 in District or Circuit Court regarding a dependent, neglected, or abused child.
- 16 (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this
17 chapter, the cabinet as the designated agency or its delegated representative shall
18 initiate a prompt investigation or assessment of family needs, take necessary action,
19 and shall offer protective services toward safeguarding the welfare of the child. The
20 cabinet shall work toward preventing further dependency, neglect, or abuse of the
21 child or any other child under the same care, and preserve and strengthen family
22 life, where possible, by enhancing parental capacity for adequate child care. If an
23 oral or written report, including but not limited to electronic submissions, alleging
24 that a child is dependent, neglected, or abused is made pursuant to this section, and
25 the cabinet determines that the report does not meet criteria for an investigation, the
26 cabinet shall refer the family to appropriate community-based child and family
27 service agencies for services to preserve and strengthen family life in accordance

1 with the requirements in 42 U.S.C. sec. 5106a.

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

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

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

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

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

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

18 (f) A noncustodial parent when the dependency, neglect, or abuse is
19 substantiated;

20 (g) Members of multidisciplinary teams as defined by KRS 620.020 and which
21 operate pursuant to KRS 431.600;

22 (h) Employees or designated agents of a children's advocacy center;

23 (i) Those persons so authorized by court order;~~[-or]~~

24 (j) The external child fatality and near fatality review panel established by KRS
25 620.055; or

26 **(k) The Commonwealth Office of the Ombudsman established pursuant to**
27 **Section 3 of this Act.**

- 1 (6) (a) Files, reports, notes, photographs, records, electronic and other
2 communications, and working papers used or developed by a children's
3 advocacy center in providing services under this chapter are confidential and
4 shall not be disclosed except to the following persons:
- 5 1. Staff employed by the cabinet, law enforcement officers, and
6 Commonwealth's and county attorneys who are directly involved in the
7 investigation or prosecution of the case, including a cabinet
8 investigation or assessment of child abuse, neglect, and dependency in
9 accordance with this chapter;
 - 10 2. Medical and mental health professionals listed by name in a release of
11 information signed by the guardian of the child, provided that the
12 information shared is limited to that necessary to promote the physical
13 or psychological health of the child or to treat the child for abuse-related
14 symptoms;
 - 15 3. The court and those persons so authorized by a court order;
 - 16 4. The external child fatality and near fatality review panel established by
17 KRS 620.055;
 - 18 **5. The Commonwealth Office of the Ombudsman established pursuant to**
19 **Section 3 of this Act;** and
 - 20 ~~6. [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
8 for 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
13 review of a child sexual abuse case as set forth under KRS 620.040. Persons
14 receiving this information shall sign a confidentiality statement consistent with
15 statutory 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
- 4 child or family that were requested and received by the cabinet during
- 5 the 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
6 for 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.

16 **(17) This section shall not be interpreted as prohibiting the Commonwealth Office of**
17 **the Ombudsman from reporting pursuant to Section 3 of this Act on de-identified**
18 **information made confidential by this section.**

19 ➔Section 13. The Cabinet for Health and Family Services is hereby directed to
20 immediately transfer control of the telephone number 800-372-2973 to the
21 Commonwealth Office of the Ombudsman, and the Cabinet for Health and Family
22 Services shall bear all costs incurred by any party in effectuating this transfer.

23 ➔Section 14. Whereas the duties of the Auditor and ombudsman operate to
24 protect the life, safety, and health of Kentuckians and no just cause exists for depriving the
25 citizens of the enhanced protections established in this Act, an emergency is declared to
26 exist, and this Act takes effect upon its passage and approval by the Governor or upon its
27 otherwise becoming law.