

1 AN ACT relating to the Kentucky Court-Appointed Special Advocate Network.

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

3 ➔Section 1. KRS 620.500 is amended to read as follows:

4 As used in KRS 620.500 to 620.550, unless the context otherwise requires:

- 5 (1) "Association" means the state Court-Appointed Special Advocate Association
6 established in KRS 620.530, ***also known as the Kentucky CASA Network;***
- 7 (2) "Court" means family court or, if there is no family court in the county where the
8 CASA program is located, then District Court;
- 9 (3) "Court-appointed special advocate case" and "CASA case" mean a child or group of
10 siblings who are within the jurisdiction of the court as a result of abuse, neglect, or
11 dependency proceedings and for whom the court has appointed and the program
12 director has assigned a CASA volunteer;
- 13 (4) "Court-appointed special advocate program" and "CASA program" mean a program
14 by which trained community volunteers are provided to the court for appointment to
15 represent the best interests of children who have come into the court system as a
16 result of dependency, abuse, or neglect;
- 17 (5) "Court-appointed special advocate volunteer" and "CASA volunteer" mean a person
18 who completes training through and is supervised by a CASA program and
19 appointed by a judge to represent the best interests of dependent, abused, and
20 neglected children in court;
- 21 (6) "Local board" means the local board of directors appointed or selected in
22 accordance with KRS 620.505 to govern local CASA programs;
- 23 (7) "Program director" means the director of each local CASA program selected in
24 accordance with KRS 620.505;
- 25 (8) "State board" means the state board of directors elected in accordance with KRS
26 620.530; and
- 27 (9) "State director" means the director of the state association provided for in KRS

1 620.537.

2 ➔Section 2. KRS 620.055 is amended to read as follows:

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

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

- 1 Attorney General from a list of three (3) names provided by the Kentucky
2 Association of Regional Mental Health and Mental Retardation Programs,
3 Inc.;
- 4 (r) A member of a citizen foster care review board selected by the Chief Justice
5 of the Kentucky Supreme Court;
- 6 (s) An at-large representative who shall serve as chairperson to be selected by the
7 Secretary of State;
- 8 (t) The president of the Kentucky Coroners Association; and
- 9 (u) A practicing medication-assisted treatment provider to be selected by the
10 Attorney General from a list of three (3) names provided by the Kentucky
11 Board of Medical Licensure.
- 12 (3) (a) ~~By August 1, 2013,~~ The appointing authority or the appointing authorities,
13 as the case may be, shall have appointed panel members. Initial terms of
14 members, other than those serving ex officio, shall be staggered to provide
15 continuity. Initial appointments shall be: five (5) members for terms of one (1)
16 year, five (5) members for terms of two (2) years, and five (5) members for
17 terms of three (3) years, these terms to expire, in each instance, on June 30
18 and thereafter until a successor is appointed and accepts appointment.
- 19 (b) Upon the expiration of these initial staggered terms, successors shall be
20 appointed by the respective appointing authorities~~]~~ for terms of two (2)
21 years~~]~~ and until successors are appointed and accept their appointments.
22 Members shall be eligible for reappointment. Vacancies in the membership of
23 the panel shall be filled in the same manner as the original appointments.
- 24 (c) At any time, a panel member shall recuse himself or herself from the review
25 of a case if the panel member believes he or she has a personal or private
26 conflict of interest.
- 27 (d) If a voting panel member is absent from two (2) or more consecutive,

1 regularly scheduled meetings, the member shall be considered to have
2 resigned and shall be replaced with a new member in the same manner as the
3 original appointment.

4 (e) If a voting panel member is proven to have violated subsection (13) of this
5 section, the member shall be removed from the panel, and the member shall
6 be replaced with a new member in the same manner as the original
7 appointment.

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

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

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

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

- 23 1. All prior and ongoing investigations, services, or contacts;
- 24 2. ~~Any and~~ All records of services to the family provided by agencies or
25 individuals contracted by the Cabinet for Health and Family Services;
26 and
- 27 3. All documentation of actions taken as a result of child fatality internal

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

- 1 1. Attendance records;
- 2 2. Special education services;
- 3 3. School-based health records; and
- 4 4. Documentation of any interaction and services provided to the children
- 5 and family.

6 The release of educational records shall ~~comply~~~~[be in compliance]~~ with the
 7 Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its
 8 implementing regulations;

9 (i) Head Start records or records from any other child care or early child care
 10 provider;

11 (j) Records of any Family, Circuit, or District Court involvement with the
 12 deceased or injured child and his or her caregivers, residents of the home and
 13 persons involved with the child at the time of the incident that include but are
 14 not limited to the juvenile and family court records and orders set out in this
 15 paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:

- 16 1. Petitions;
- 17 2. Court reports by the Department for Community Based Services,
- 18 guardian ad litem, court-appointed special advocate, and the Citizen
- 19 Foster Care Review Board;
- 20 3. All orders of the court, including temporary, dispositional, or
- 21 adjudicatory; and
- 22 4. Documentation of annual or any other review by the court;

23 (k) Home visit records from the Department for Public Health or other services;

24 (l) All information on prior allegations of abuse or neglect and deaths of children
 25 of adults residing in the household;

26 (m) All law enforcement records and documentation regarding the deceased or
 27 injured child and his or her caregivers, residents of the home, and persons

- 1 involved with the child at the time of the incident; and
- 2 (n) Mental health records regarding the deceased or injured child and his or her
- 3 caregivers, residents of the home, and persons involved with the child at the
- 4 time of the incident.
- 5 (7) The panel may seek the advice of experts, such as persons specializing in the fields
- 6 of psychiatric and forensic medicine, nursing, psychology, social work, education,
- 7 law enforcement, family law, or other related fields, if the facts of a case warrant
- 8 additional expertise.
- 9 (8) The panel shall post updates after each meeting to the website of the Justice and
- 10 Public Safety Cabinet regarding case reviews, findings, and recommendations.
- 11 (9) The panel chairperson, or other requested persons, shall report a summary of the
- 12 panel's discussions and proposed or actual recommendations to the Interim Joint
- 13 Committee on Families and Children of the Kentucky General Assembly monthly
- 14 or at the request of a committee co-chair. The goal of the committee shall be to
- 15 ensure impartiality regarding the operations of the panel during its review process.
- 16 (10) (a) The panel shall publish an annual report by February 1 of each year consisting
- 17 of case reviews, findings, and recommendations for system and process
- 18 improvements to help prevent child fatalities and near fatalities that are due to
- 19 abuse and neglect. The report shall be submitted to the Governor, the
- 20 secretary of the Cabinet for Health and Family Services, the Chief Justice of
- 21 the Supreme Court, the Attorney General, the State Child Abuse and Neglect
- 22 Prevention Board established pursuant to KRS 15.905, and the director of the
- 23 Legislative Research Commission for distribution to the Interim Joint
- 24 Committee on Families and Children~~[,]~~ and the Interim Joint Committee on
- 25 Judiciary.
- 26 (b) The panel shall determine which agency is responsible for implementing each
- 27 recommendation, and shall forward each recommendation in writing to the

1 appropriate agency.

2 (c) Any agency that receives a recommendation from the panel shall, within
3 ninety (90) days of receipt:

4 1. Respond to the panel with a written notice of intent to implement the
5 recommendation, an explanation of how the recommendation will be
6 implemented, and an approximate time frame of implementation; or

7 2. Respond to the panel with a written notice that the agency does not
8 intend to implement the recommendation, and a detailed explanation of
9 why the recommendation cannot be implemented.

10 (11) (a) Information and record copies that are confidential under state or federal law
11 and are provided to the external child fatality and near fatality review panel by
12 the Cabinet for Health and Family Services, the Department for Community
13 Based Services, or any agency, organization, or entity for review shall not
14 become the information and records of the panel and shall not lose their
15 confidentiality by virtue of the panel's access to the information and records.

16 (b) The original information and records used to generate information and record
17 copies provided to the panel in accordance with subsection (6) of this section
18 shall be maintained by the appropriate agency in accordance with state and
19 federal law and shall be subject to the Kentucky Open Records Act, KRS
20 61.870 to 61.884.

21 (c) All open records requests shall be made to the appropriate agency, not to the
22 external child fatality and near fatality review panel or any of the panel
23 members.

24 (d) Information and record copies provided to the panel for review shall be
25 exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884.

26 (e) At the conclusion of the panel's examination, all copies of information and
27 records provided to the panel involving an individual case shall be destroyed

1 by the Justice and Public Safety Cabinet.

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

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

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

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

24 (16) The proceedings, records, opinions, and deliberations of the external child fatality
25 and near fatality review panel shall be privileged and shall not be subject to
26 discovery, subpoena, or introduction into evidence in any civil or criminal actions
27 in any manner that would directly or indirectly identify specific persons or cases

1 reviewed by the panel. Nothing in this subsection shall be construed to restrict or
2 limit the right to discover or use in any civil action any evidence that is
3 discoverable independent of the proceedings of the panel.

4 (17) The Legislative Oversight and Investigations Committee of the Kentucky General
5 Assembly shall conduct an annual evaluation of the external child fatality and near
6 fatality review panel established pursuant to this section to monitor the operations,
7 procedures, and recommendations of the panel and shall report its findings to the
8 General Assembly.

9 ➔Section 3. KRS 620.505 is amended to read as follows:

10 (1) For the purpose of providing an independent, efficient, and thorough representation
11 for children who enter the court system as a result of dependency, abuse, or neglect,
12 there may be established a court-appointed special advocate program by the chief
13 judge of family court or, if none, then by the Chief District Judge.

14 (2) Local CASA programs shall be governed by a local board of directors. For new
15 CASA programs, the board shall initially be appointed by the chief judge of family
16 court or, if none, then by the Chief District Judge. Members shall be selected by the
17 existing board members thereafter. Each board shall include at least twelve
18 ~~(12)~~~~fifteen~~ ~~(15)~~ members. Each board member shall have a demonstrated interest
19 in child welfare issues and commitment to the purpose and role of the court-
20 appointed special advocate volunteers. Cabinet employees shall not be eligible to
21 serve as officers of the board. Members shall, as far as practicable, be representative
22 of the racial and ethnic composition of the area served by the CASA program. The
23 board shall:

24 (a) Determine major personnel, organization, fiscal, and program policies
25 including~~g~~ but not limited to~~g~~ the following:

26 1. Measures to be taken to safeguard the CASA program's information
27 relating to children, their families, and the CASA volunteers;

- 1 2. The procedures for the recruitment, screening, training, and supervision
2 of CASA volunteers; and
- 3 3. The procedure for and circumstances warranting dismissal of a CASA
4 volunteer from the CASA program;
- 5 (b) Determine overall plans and priorities for the CASA program, including
6 provisions for evaluating progress against performance;
- 7 (c) Approve the program budget;
- 8 (d) Enforce compliance with all conditions of all grants contracts;
- 9 (e) Determine rules and procedures for the governing board;
- 10 (f) Select the officers and the executive committee, if any, of the governing
11 board;
- 12 (g) Meet at least four (4) times each year;
- 13 (h) Submit an annual report to the association in the uniform manner required
14 which shall include, but need not be limited to, the following information:
- 15 1. Number of CASA volunteers in the program;
- 16 2. Number of program staff;
- 17 3. Number of children served;
- 18 4. Number of volunteers receiving initial training;
- 19 5. Number of and topics for in-service training;
- 20 6. The type of source of the funds received and the amount received from
21 each type of source during the previous fiscal year;
- 22 7. The expenditures during the previous year; and
- 23 8. Other information as deemed appropriate.
- 24 (3) Local CASA programs shall comply with the ~~[National CASA Association and~~
25 ~~]Kentucky CASA Network[Association]~~ Standards for Programs. Local programs
26 shall ensure that CASA volunteers are adequately supervised by providing at least
27 one (1) supervisory staff person for every thirty (30) CASA volunteers that have

- 1 been appointed by the court and assigned by the program director. Each local
2 CASA program shall be managed by a qualified director whose service may be
3 voluntary or who may be paid a salary. The program director's duties shall include:
- 4 (a) Administration of the CASA program as directed by the local and state
5 boards;
 - 6 (b) Recruitment, screening, training, and supervision of CASA volunteers and
7 other program staff;
 - 8 (c) Facilitation of the performance of the court-appointed special advocates'
9 duties; and
 - 10 (d) Ensuring that the security measures established by the local and state boards
11 for safeguarding the information relating to children, their families, and the
12 CASA volunteers are maintained.
- 13 (4) CASA volunteers shall, as far as practicable, be representative of the
14 socioeconomic, racial, and ethnic composition of the area served.
- 15 (5) CASA volunteers may be removed by the court for nonparticipation or other cause
16 or by the program director pursuant to subsection (2) of this section.
- 17 (6) All written court-appointed special advocate reports submitted pursuant to KRS
18 620.525 shall become part of the cabinet's record of the child.
- 19 (7) Employees of the ***Department for Community Based Services***~~[cabinet]~~ shall not
20 become volunteers or employees of the court-appointed special advocate program.
- 21 (8) Each CASA volunteer, program director, and other program staff shall take an oath,
22 administered by a member of the Court of Justice, to keep confidential all
23 information related to the appointed case except in conferring with or reports to the
24 court, parties to the case, the cabinet, the Citizen Foster Care Review Board, others
25 designated by the court, and as provided by law.
- 26 (9) CASA volunteers shall be appointed by the presiding judge to represent the best
27 interest of the child, subject to judicial discretion, and only after confirmation from

1 the program director that the CASA volunteer has been properly screened and
2 trained.

3 ➔Section 4. KRS 620.537 is amended to read as follows:

4 If the state board employs a full-time staff person to serve as the director of the
5 association, then:

6 (1) The state director shall be a person who by a combination of education, professional
7 qualification, training, and experience is qualified to perform the duties of this
8 position. The state director shall be of good moral character with at least two (2)
9 years of experience working in a position managing a human services program and
10 who has received a:

11 (a) Master's degree in social work, sociology, psychology, guidance and
12 counseling, education, criminal justice, or other human service field; or

13 (b) Baccalaureate degree in social work, sociology, psychology, guidance and
14 counseling, education, criminal justice, or other human service field with, in
15 addition to the work experience required in this subsection, at least two (2)
16 more years of experience working in the human services field.

17 (2) The duties of the state director shall be:

18 (a) To manage the state court-appointed special advocate office, including staff;

19 (b) To coordinate the activities of the association;

20 (c) To monitor the policies and practices of local CASA programs for compliance
21 with state laws, *national standards for CASA programs*~~[National CASA~~
22 ~~Association Standards for Programs]~~, and *standards and* reporting
23 requirements established by the state association; to assist local CASA
24 programs in efforts to achieve compliance; and to report to the state
25 association the status of compliance by local CASA programs;

26 (d) Upon request of local CASA programs, to provide technical assistance to
27 local CASA programs;

- 1 (e) To provide technical assistance and support to chief judges of family courts,
2 Chief District Judges, and others in development of new local CASA
3 programs;
- 4 (f) To coordinate a statewide public awareness campaign for generating interest
5 in developing new CASA programs, recruiting volunteers, and informing the
6 public of the issues concerning child abuse and neglect; and
- 7 (g) Other duties as directed by the association.