

1       AN ACT relating to the establishment of the External Detainee Fatality Review  
2       Panel.

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

4       →SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO  
5       READ AS FOLLOWS:

6       (1) (a) The External Detainee Fatality Review Panel is hereby created and  
7       established for the purpose of conducting reviews of all fatalities of  
8       individuals who were committed to or in the custody of:

9       1. A law enforcement agency as defined in KRS 70.294;

10       2. A county jail or regional detention center; or

11       3. Any facility operated by:

12       a. The Department of Corrections;

13       b. The Department of Juvenile Justice; or

14       c. A private entity contracted with either the Department of  
15       Corrections or the Department of Juvenile Justice;

16       at the time of death or at the time medical assistance was sought for a  
17       condition that led to the individual's death.

18       (b) The External Detainee Fatality Review Panel shall not review the death of  
19       an individual:

20       1. That occurred in a nonresidential community-based program, house  
21       arrest program, day reporting program, or private work program; or

22       2. Who was deemed to be:

23       a. Absent without leave;

24       b. An escapee; or

25       c. On long-term transfer to another jurisdiction.

26       (c) The External Detainee Fatality Review Panel shall be attached to the  
27       Justice and Public Safety Cabinet for staff and administrative purposes but

1                   shall operate as an independent entity designed to promote carceral safety  
2                   throughout the Commonwealth.

3                   (2) The External Detainee Fatality Review Panel shall be composed of:

4                   (a) The following sixteen (16) nonvoting members:

- 5                   1. The House chair of the Committee on Judiciary, ex officio;
- 6                   2. The Senate chair of the Committee on Judiciary, ex officio;
- 7                   3. The Attorney General, ex officio, or designee;
- 8                   4. The secretary of the Justice and Public Safety Cabinet, ex officio, or  
9                   designee;
- 10                   5. The commissioner of the Department of Corrections, ex officio;
- 11                   6. The commissioner of the Department of Juvenile Justice, ex officio;
- 12                   7. The public advocate, ex officio, or designee;
- 13                   8. The state medical examiner, ex officio, or designee;
- 14                   9. A representative from the Kentucky Jailers Association;
- 15                   10. A representative from the Kentucky Association of Counties;
- 16                   11. A representative from the Kentucky County Attorneys Association;
- 17                   12. A representative from the Kentucky Commonwealth's Attorneys'  
18                   Association;
- 19                   13. A representative from the Kentucky County Judge/Executive  
20                   Association;
- 21                   14. A peace officer appointed by the commissioner of the Department of  
22                   Kentucky State Police who possesses experience investigating detainee  
23                   deaths that occurred while in state or local custody;
- 24                   15. A formerly incarcerated individual appointed by the Governor; and
- 25                   16. A representative from a community-based organization that advocates  
26                   for the interests of incarcerated individuals, appointed by the  
27                   Governor; and

1                   **(b) The following seven (7) voting members:**

2                   **1. Two (2) retired judges appointed by the Governor who may be**

3                   **chosen from a list of six (6) possible candidates supplied by the**

4                   **Chief Justice of the Supreme Court of Kentucky;**

5                   **2. Two (2) board-certified pathologists appointed by the Governor;**

6                   **3. A qualified mental health professional as defined in KRS**

7                   **202A.011, who shall be appointed by the Attorney General;**

8                   **4. A citizen of the Commonwealth who shall be appointed by the**

9                   **Governor, who may be chosen from a list of three (3) possible**

10                   **candidates supplied by the President of the Senate; and**

11                   **5. A citizen of the Commonwealth who shall be appointed by the**

12                   **Governor, who may be chosen from a list of three (3) possible**

13                   **candidates supplied by the Speaker of the House of**

14                   **Representatives.**

15                   **(3) The seven (7) voting members appointed under subsection (2)(b) of this section**

16                   **shall vote to elect a chairperson from among the voting members. The voting**

17                   **member chosen as chairperson shall serve as chairperson for the entirety of his**

18                   **or her term. The voting members shall also vote to establish procedures for the**

19                   **panel, including the votes necessary to take actions authorized by this section.**

20                   **(4) (a) Terms of the voting members shall expire on June 30 each year and**

21                   **thereafter until a successor is appointed and accepts appointment.**

22                   **(b) Successors for the voting members shall be appointed by the respective**

23                   **appointing authorities for terms of two (2) years, and until successors are**

24                   **appointed and accept their appointments. Members shall be eligible for**

25                   **reappointment. Vacancies in the membership of the panel shall be filled in**

26                   **the same manner as the original appointments.**

27                   **(c) At any time, a panel member shall recuse himself or herself from the review**

1                   of a case if the panel member believes he or she has a personal or private  
2                   conflict of interest.

3                   (d) If a voting panel member is absent from two (2) or more consecutive,  
4                   regularly scheduled meetings, the member shall be considered to have  
5                   resigned and shall be replaced with a new member in the same manner as  
6                   the original appointment.

7                   (e) If a voting panel member is proven to have violated subsection (17) of this  
8                   section, the member shall be removed from the panel and replaced with a  
9                   new member in the same manner as the original appointment.

10                   (5) The panel shall meet at least quarterly. In addition to the required quarterly  
11                   panel meeting, the panel may meet upon the call of the chairperson of the panel.

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

15                   (7) Each law enforcement agency, jailer, the commissioner of the Department of  
16                   Corrections, and the commissioner of the Department of Juvenile Justice shall  
17                   submit, as appropriate, the following documents to the panel within thirty (30)  
18                   days of the death of a detainee:

19                   (a) Any coroner's report generated in response to the death;

20                   (b) Any initial investigation report conducted by the entity that had custody over  
21                   the deceased detainee; and

22                   (c) Any extraordinary occurrence report related to the death of a detainee.

23                   (8) Administrative staff assigned to the panel shall use the information collected  
24                   pursuant to subsection (7) of this section to compile a list of detainee deaths from  
25                   the preceding quarter which shall be presented to the panel in advance of a  
26                   meeting of the panel, along with unredacted copies of the information collected  
27                   pursuant to subsection (7) of this section.

1        (9) After review of the list and information compiled pursuant to subsection (8) of  
2        this section, the panel may vote to request further information or records relating  
3        to any detainee fatality. Upon a request by the panel, any law enforcement  
4        agency, county jail or regional detention center, the Office of the Kentucky State  
5        Medical Examiner, the Department of Corrections, the Department of Juvenile  
6        Justice, or any agency, organization, or entity involved with providing services or  
7        investigating incidents pertaining to deceased detainees shall provide to the panel  
8        any requested information or records within a reasonable time period established  
9        by the panel. The requested information or records may include but are not  
10        limited to:

11        (a) County jail or regional detention center, law enforcement agency,  
12        Department of Corrections, or Department of Juvenile Justice records and  
13        documentation regarding the deceased detainee at the time of booking,  
14        during detention, at the time of or subsequent to the incident leading to the  
15        fatality, including all records and documentation set out in this paragraph:  
16        1. Any actions taken by law enforcement, the county jail or regional  
17        detention center, Department of Corrections, or Department of  
18        Juvenile Justice on behalf of or regarding the deceased detainee  
19        during arrest or booking;  
20        2. Any records of services to the detainee provided by the law  
21        enforcement agency, county jail or regional detention center,  
22        Department of Corrections, or Department of Juvenile Justice staff, or  
23        any agencies or individuals contracted to provide services by the  
24        county jail or regional detention center, Department of Corrections, or  
25        Department of Juvenile Justice;  
26        3. Any documentation relating to any investigation of the fatality,  
27        including all extraordinary occurrence reports and video or audio

**recordings relating to the detainee; and**

**4. Any documentation of actions taken as a result of the detainee fatality;**

(b) Any reports from the Cabinet for Health and Family Services, Office of Inspector General, if an incident occurred due to actions of a licensed healthcare provider while providing services in a county jail or regional detention center, state prison, or facility operated by Department of Juvenile Justice;

(c) Any available records from the Administrative Office of the Courts regarding the deceased detainee's history of arrests and convictions;

(d) Any available records from the Department of Kentucky State Police regarding the deceased detainee's history of arrests;

(e) Any autopsy reports;

(f) Any emergency medical service, fire department, law enforcement, coroner, and other first responder reports regarding the deceased detainee, including but not limited to photographs, video recordings, and interviews with witnesses; and

(g) Any records of medical and behavioral health services provided to the deceased detainee during detention in the county jail or regional detention center, state prison, or youth development center, including but not limited to all records and documentation set out in this paragraph:

1. Primary care records, including progress notes; assessment of behavioral health problems; assessment of detainee suicidal thinking or attempts completed by the county jail, regional detention center, state prison, or youth development center, or by a statewide suicide prevention program; and descriptions of all medical or behavioral health services provided to the deceased detainee during all detention episodes of the deceased detainee;

1       2. Notes and records of all law enforcement officers who detained or had  
2       physical contact with the deceased detainee relating to the  
3       incarceration during which the fatality occurred prior to the booking  
4       of the detainee in the county jail, regional detention center, or facility  
5       operated by the Department of Juvenile Justice;

6       3. Hospitalization and emergency department records regarding the  
7       deceased detainee and actions subsequent to the fatality;

8       4. Dental records;

9       5. Specialist records; and

10      6. All photographs of injuries of the deceased detainee that are available.

11     (10) Each panel member shall be provided with unredacted copies of all information  
12     or records submitted pursuant to subsection (9) of this section.

13     (11) If the facts of a case warrant additional expertise, the panel may seek the advice  
14     of experts such as persons specializing in the fields of psychiatric and forensic  
15     medicine, nursing, psychology, social work, education, law enforcement, family  
16     law, or other related fields.

17     (12) The panel shall post updates regarding findings and recommendations after each  
18     meeting to the website of the Justice and Public Safety Cabinet.

19     (13) The panel chairperson or other requested persons shall report a summary of the  
20     panel's discussions and proposed or actual recommendations to the Interim Joint  
21     Committees on Judiciary and State Government at the request of a committee co-  
22     chair. The goal of each committee shall be to ensure impartiality regarding the  
23     operations of the panel during its review process.

24     (14) The panel shall publish an annual report by December 1 of each year consisting  
25     of findings and recommendations for system and process improvements to help  
26     prevent detainee fatalities. The report shall be submitted to the Governor, the  
27     secretary of the Justice and Public Safety Cabinet, the Chief Justice of the

1        Supreme Court, the Attorney General, and the director of the Legislative  
2        Research Commission for distribution to the appropriate committees.

3        (15) (a) Information and record copies that are confidential under state or federal  
4        law and are provided to the External Detainee Fatality Review Panel by the  
5        Justice and Public Safety Cabinet, the Department of Corrections, the  
6        Cabinet for Health and Family Services, county jails or regional detention  
7        centers, or any agency, organization, or entity for review shall not become  
8        the information and records of the panel and shall not lose their  
9        confidentiality by virtue of the panel's access to the information and  
10        records.

11        (b) The original information and records used to generate information and  
12        record copies provided to the panel in accordance with subsections (7) and  
13        (9) of this section shall be maintained by the appropriate agency in  
14        accordance with state and federal law and shall be subject to the Kentucky  
15        Open Records Act, KRS 61.870 to 61.884. All open records requests shall be  
16        made to the appropriate agency and not to the External Detainee Fatality  
17        Review Panel or any of the panel members.

18        (c) Information and record copies provided to the panel for review shall be  
19        exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884. At the  
20        conclusion of the panel's examination, all copies of information and  
21        records provided to the panel involving an individual case shall be destroyed  
22        by the Justice and Public Safety Cabinet.

23        (16) Notwithstanding any provision of law to the contrary, the portions of the External  
24        Detainee Fatality Review Panel meetings during which an individual detainee  
25        fatality case is reviewed or discussed by panel members may be a closed session,  
26        subject to KRS 61.815(1), and may only occur following the conclusion of an  
27        open session. At the conclusion of the closed session, the panel shall immediately

1        convene an open session and give a summary of what occurred during the closed  
2        session.

3        (17) Each member of the External Detainee Fatality Review Panel, any person  
4        attending a closed panel session, and any person presenting information or  
5        records on an individual detainee fatality shall not release information or records  
6        not available under the Kentucky Open Records Act, KRS 61.870 to 61.884, to the  
7        public.

8        (18) A member of the External Detainee Fatality Review Panel shall not be prohibited  
9        from making a good-faith report to any state or federal agency of any  
10        information or issue that the panel member believes should be reported or  
11        disclosed in an effort to facilitate effectiveness and transparency in Kentucky's  
12        detainee protective services.

13        (19) A member of the External Detainee Fatality Review Panel shall not be held liable  
14        for any civil damages or criminal penalties as a result of any action taken or  
15        omitted in the performance of the member's duties pursuant to this section,  
16        except for violations of subsection (15), (16), or (17) of this section.

17        (20) Beginning in 2027, the Legislative Oversight and Investigations Committee shall  
18        conduct an annual evaluation of the External Detainee Fatality Review Panel to  
19        monitor the operations, procedures, and recommendations of the panel and shall  
20        report its findings to the Legislative Research Commission.

21        ➔Section 2. (1)        By August 1, 2026, the appointing authorities specified in  
22        Section 1 of this Act shall have appointed panel members. Initial terms of voting  
23        members shall be staggered to provide continuity. Initial appointments shall be three (3)  
24        members for terms of one (1) year, and four (4) members for terms of two (2) years.

25        (2)        The voting panel members shall be appointed in the following order:  
26            (a)        One (1) retired judge pursuant to subsection (2)(b)1. of Section 1 of this Act  
27        to a term of one (1) year;

- 1       (b) One (1) pathologist pursuant to subsection (2)(b)2. of Section 1 of this Act to
- 2       a term of one (1) year;
- 3       (c) One (1) citizen of the Commonwealth pursuant to subsection (2)(b)4. of
- 4       Section 1 of this Act to a term of one (1) year;
- 5       (d) One (1) retired judge pursuant to subsection (2)(b)1. of Section 1 of this Act
- 6       to a term of two (2) years;
- 7       (e) One (1) pathologist pursuant to subsection (2)(b)2. of Section 1 of this Act to
- 8       a term of two (2) years;
- 9       (f) One (1) qualified mental health professional pursuant to subsection (2)(b)3. of
- 10      Section 1 of this Act to a term of two (2) years; and
- 11      (g) One (1) citizen of the Commonwealth pursuant to subsection (2)(b)5. of
- 12      Section 1 of this Act to a term of two (2) years.