

1 AN ACT relating to child dependency, neglect, and abuse reports.

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

3 ➔Section 1. KRS 620.050 is amended to read as follows:

- 4 (1) Anyone acting upon reasonable cause in the making of a report or acting under
5 KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil
6 or criminal, that might otherwise be incurred or imposed. Any such participant shall
7 have the same immunity with respect to participation in any judicial proceeding
8 resulting from such report or action. However, any person who knowingly makes a
9 false report and does so with malice shall be guilty of a Class A misdemeanor.
- 10 (2) Any employee or designated agent of a children's advocacy center shall be immune
11 from any civil liability arising from performance within the scope of the person's
12 duties as provided in KRS 620.030 to 620.050. Any such person shall have the
13 same immunity with respect to participation in any judicial proceeding. Nothing in
14 this subsection shall limit liability for negligence. Upon the request of an employee
15 or designated agent of a children's advocacy center, the Attorney General shall
16 provide for the defense of any civil action brought against the employee or
17 designated agent as provided under KRS 12.211 to 12.215.
- 18 (3) Neither the husband-wife nor any professional-client/patient privilege, except the
19 attorney-client and clergy-penitent privilege, shall be a ground for refusing to report
20 under this section or for excluding evidence regarding a dependent, neglected, or
21 abused child or the cause thereof, in any judicial proceedings resulting from a report
22 pursuant to this section. This subsection shall also apply in any criminal proceeding
23 in District or Circuit Court regarding a dependent, neglected, or abused child.
- 24 (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this
25 chapter, the cabinet as the designated agency or its delegated representative shall
26 initiate a prompt investigation or assessment of family needs, take necessary action,
27 and shall offer protective services toward safeguarding the welfare of the child. The

1 cabinet shall work toward preventing further dependency, neglect, or abuse of the
2 child or any other child under the same care, and preserve and strengthen family
3 life, where possible, by enhancing parental capacity for adequate child care.

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

- 8 (a) Persons suspected of causing dependency, neglect, or abuse;
- 9 (b) The custodial parent or legal guardian of the child alleged to be dependent,
10 neglected, or abused;
- 11 (c) Persons within the cabinet with a legitimate interest or responsibility related
12 to the case;
- 13 (d) A licensed child-caring facility or child-placing agency evaluating placement
14 for or serving a child who is believed to be the victim of an abuse, neglect, or
15 dependency report;
- 16 (e) Other medical, psychological, educational, or social service agencies, child
17 care administrators, corrections personnel, or law enforcement agencies,
18 including the county attorney's office, the coroner, and the local child fatality
19 response team, that have a legitimate interest in the case;
- 20 (f) A noncustodial parent when the dependency, neglect, or abuse is
21 substantiated;
- 22 (g) Members of multidisciplinary teams as defined by KRS 620.020 and which
23 operate pursuant to KRS 431.600;
- 24 (h) Employees or designated agents of a children's advocacy center;
- 25 (i) Those persons so authorized by court order; or
- 26 (j) The external child fatality and near fatality review panel established by KRS
27 620.055.

- 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;~~and~~
 - 18 5. The parties to an administrative hearing conducted by the cabinet or its
19 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
20 substantiated finding of abuse or neglect. The children's advocacy center
21 may, in its sole discretion, provide testimony in lieu of files, reports,
22 notes, photographs, records, electronic and other communications, and
23 working papers used or developed by the center if the center determines
24 that the release poses a threat to the safety or well-being of the child, or
25 would be in the best interests of the child. Following the administrative
26 hearing and any judicial review, the parties to the administrative hearing
27 shall return all files, reports, notes, photographs, records, electronic and

1 other communications, and working papers used or developed by the
2 children's advocacy center to the center; and

3 6. A person, agency, or organization engaged in a bona fide research,
4 quality improvement, or evaluation project having value as determined
5 by the cabinet. Nothing in this subparagraph shall limit the authority
6 of the cabinet to decline to share data in cases where it deems a
7 research, quality improvement, or evaluation project lacks sufficient
8 merit or value, or the perceived risks are unacceptably high. Data
9 sharing shall be driven by the aims of advancing human knowledge,
10 complying with federal requirements, and facilitating future planning
11 for programs that support families, serve maltreated children, or
12 inform the development of policy. Data may be shared under this
13 subparagraph provided that the following conditions are met:

14 a. The person, agency, or organization enters into a data-use
15 agreement with the cabinet and complies with the data security
16 and privacy conditions outlined by the Office of Data Analytics
17 within the Office of the Secretary within the cabinet;

18 b. Any confidential information provided for a research, quality
19 improvement, or evaluation project under this subparagraph
20 shall not be redisclosed. The cabinet shall not share personally
21 identifiable information under this subparagraph, except in
22 cases where such information is essential to the completion of
23 the project. For the purposes of this subparagraph "personally
24 identifiable information" means the current definition
25 promulgated by the United States National Institute of Standards
26 and Technology at the time of data sharing; and

27 c. If a research or evaluation project results in the publication or

1 public dissemination of related material, confidential
2 information provided for a research, quality improvement, or
3 evaluation project under this subparagraph shall not be
4 disclosed in the results.

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.