

1 AN ACT relating to domestic and dating violence and abuse reporting.

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

3 ➔Section 1. KRS 209A.010 is repealed, reenacted, and amended to read as
4 follows:

5 The purpose of this chapter is to identify victims of domestic violence and ~~[,]~~ abuse and
6 *dating violence and abuse, to link those victims to services* ~~[or neglect inflicted by a~~
7 ~~spouse]~~, and to provide *protective or therapeutic services for those who choose to accept*
8 *them* ~~[for the protection of adults who choose to access those services. A victim of~~
9 ~~domestic violence who has a mental or physical disability or who cannot carry out the~~
10 ~~activities of daily living or protect himself or herself without the assistance of others may~~
11 ~~be served under the provisions of KRS Chapter 209].~~

12 ➔Section 2. KRS 209A.020 is repealed, reenacted, and amended to read as
13 follows:

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

15 (1) *"Cabinet" means the Cabinet for Health and Family Services;*

16 (2) *"Dating violence and abuse" has the same meaning as in KRS 456.010;*

17 (3) *"Domestic violence and abuse" has the same meaning as in KRS 403.720;*

18 (4) *"Law enforcement officer" means a member of a lawfully organized police unit*
19 *or police force of county, city, or metropolitan government who is responsible for*
20 *the detection of crime and the enforcement of the general criminal laws of the*
21 *state, as well as a sheriff, sworn deputy sheriff, campus police officer, law*
22 *enforcement support personnel, public airport authority security officer, other*
23 *public and federal peace officer responsible for law enforcement, special local*
24 *peace officer appointed pursuant to KRS 61.360, school resource officer, public*
25 *school district security officer, and any other enforcement officer as defined by*
26 *law;*

27 (5) *"Professional" means a prosecutor, physician, osteopathic physician, coroner,*

1 medical examiner, medical resident, medical intern, chiropractor, nurse, dentist,
 2 optometrist, emergency medical technician, paramedic, mental health
 3 professional, therapist, cabinet employee, social worker, child-care personnel,
 4 teacher, school personnel, ordained minister or the denominational equivalent,
 5 or any organization or agency employing any of these professionals; and

6 (6) "Victim" means an individual who is or has been abused by a spouse or former
 7 spouse or an intimate partner who meets the definition of a member of an
 8 unmarried couple as defined in KRS 403.720, or a member of a dating
 9 relationship as defined in KRS 456.010~~["Secretary" means the secretary of the~~
 10 ~~Cabinet for Health and Family Services;~~

11 ~~(2) "Cabinet" means the Cabinet for Health and Family Services;~~

12 ~~(3) "Department" means the Department for Community Based Services of the Cabinet~~
 13 ~~for Health and Family Services;~~

14 ~~(4) "Adult" means a person without regard to age who is the victim of abuse or neglect~~
 15 ~~inflicted by a spouse;~~

16 ~~(5) "Protective services" means agency services undertaken with or on behalf of an~~
 17 ~~adult in need of protective services who is being abused or neglected. These~~
 18 ~~services may include but are not limited to conducting investigations of complaints~~
 19 ~~of possible abuse or neglect to ascertain whether or not the situation and condition~~
 20 ~~of the adult in need of protective services warrants further action, including action~~
 21 ~~under KRS Chapter 209, and social services aimed at preventing and remedying~~
 22 ~~abuse or neglect;~~

23 ~~(6) "Abuse" means the infliction of injury, unreasonable confinement, intimidation, or~~
 24 ~~punishment resulting in physical harm or pain, including mental injury;~~

25 ~~(7) "Investigation" shall include but is not limited to a personal interview with the~~
 26 ~~individual reported to be abused or neglected. When abuse or neglect is allegedly~~
 27 ~~the cause of death, a coroner's or doctor's report shall be examined as part of the~~

1 investigation;

2 ~~(8) "Records" means the medical or mental health records of the adult that are in the~~
 3 ~~possession of any individual, hospital, firm, corporation, or other facility if~~
 4 ~~necessary to complete the investigation mandated in KRS 209.030(5);~~

5 ~~(9) "Neglect" means a situation in which a person deprives his or her spouse of~~
 6 ~~reasonable services to maintain health and welfare; and~~

7 ~~(10) "Authorized agency" means:~~

8 ~~(a) The Cabinet for Health and Family Services;~~

9 ~~(b) A local law enforcement agency or the Department of Kentucky State Police;~~

10 ~~or~~

11 ~~(c) The office of a Commonwealth's attorney or county attorney].~~

12 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO
 13 READ AS FOLLOWS:

14 **(1) Upon the request of a victim, a professional may report an act of domestic**
 15 **violence and abuse or dating violence and abuse to a law enforcement officer.**

16 **(2) A professional who makes a report under this chapter shall discuss the report**
 17 **with the victim prior to contacting a law enforcement officer.**

18 **(3) A professional shall not report an act of domestic violence and abuse or dating**
 19 **violence and abuse to a law enforcement officer if the victim objects to the report**
 20 **being made.**

21 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO
 22 READ AS FOLLOWS:

23 **(1) A professional shall report to a law enforcement officer his or her belief that the**
 24 **death of a victim with whom he or she has had a professional interaction is**
 25 **related to domestic violence and abuse or dating violence and abuse.**

26 **(2) Nothing in this chapter shall relieve a professional of the duty pursuant to KRS**
 27 **620.030 to report any known or suspected abuse, neglect, or dependency of a**

1 child.

2 (3) Nothing in this section shall relieve a professional of the duty pursuant to KRS
3 209.030 to report to the cabinet any known or suspected abuse, neglect, or
4 exploitation of a person eighteen (18) years of age or older who because of
5 mental or physical dysfunction is unable to manage his or her own resources,
6 carry out the activity of daily living, or protect himself or herself from neglect,
7 exploitation, or a hazardous or abusive situation without assistance from others.

8 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO
9 READ AS FOLLOWS:

10 (1) If a law enforcement officer receives a report of domestic violence and abuse or
11 dating violence and abuse, the officer shall use all reasonable means to provide
12 assistance as required under KRS 403.785 and 456.090.

13 (2) A law enforcement officer who responds to a report of domestic violence and
14 abuse or dating violence and abuse shall use the JC-3 form, or its equivalent
15 replacement, as provided by the Justice and Public Safety Cabinet to document
16 any information or injuries related to the domestic violence and abuse or dating
17 violence and abuse.

18 (3) A completed JC-3 form, or its equivalent replacement, shall be kept in the records
19 of the law enforcement officer's agency of employment.

20 (4) If the JC-3 form, or its equivalent replacement, includes information that only
21 relates to a victim as defined in Section 2 of this Act, the form shall not be
22 forwarded to the cabinet.

23 (5) If the JC-3 form, or its equivalent replacement, includes information on known
24 or suspected child abuse or neglect or the abuse or neglect of an elderly or
25 disabled adult, the form shall be forwarded to the cabinet.

26 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO
27 READ AS FOLLOWS:

1 (1) If a professional has reasonable cause to believe that a victim has experienced
 2 domestic violence and abuse or dating violence and abuse, the professional shall
 3 provide the victim with educational materials related to domestic violence and
 4 abuse or dating violence and abuse including information about how he or she
 5 may access regional domestic violence programs under KRS 209.160 or rape
 6 crisis centers under KRS 211.600 and information about how to access protective
 7 orders.

8 (2) A nonprofit corporation designated by the cabinet pursuant to Section 11 of this
 9 Act as a primary service provider for domestic violence shelter, crisis, and
 10 advocacy services in the district in which the provider is located shall make the
 11 educational materials required under this section available on its Web site or in
 12 print form for professionals to provide to possible victims of domestic violence
 13 and abuse or dating violence and abuse.

14 ➔Section 7. KRS 209A.030 is repealed, reenacted, and amended to read as
 15 follows:

16 ~~{(1) The secretary may promulgate administrative regulations in accordance with KRS~~
 17 ~~Chapter 13A to effect the purposes of this chapter. The secretary may offer or cause~~
 18 ~~to be offered protective services for safeguarding the welfare of an adult who has~~
 19 ~~experienced abuse or neglect inflicted or caused by a spouse. While the cabinet~~
 20 ~~shall continue to have primary responsibility for investigation and the provision of~~
 21 ~~protective services under this chapter, nothing in this chapter shall restrict the~~
 22 ~~powers of another authorized agency to act under its statutory authority.~~

23 ~~(2) Any person, including but not limited to physician, law enforcement officer, nurse,~~
 24 ~~social worker, cabinet personnel, coroner, medical examiner, mental health~~
 25 ~~professional, alternate care facility employee, or caretaker, having reasonable cause~~
 26 ~~to suspect that an adult has suffered abuse or neglect, shall report or cause reports to~~
 27 ~~be made in accordance with the provisions of this chapter. Death of the adult does~~

1 ~~not relieve one of the responsibility for reporting the circumstances surrounding the~~
2 ~~death.~~

3 ~~(3) — An oral or written report shall be made immediately to the cabinet upon knowledge~~
4 ~~of suspected abuse or neglect of an adult.~~

5 ~~(4) — Any person making such a report shall provide the following information, if known:~~

6 ~~(a) — The name and address of the adult;~~

7 ~~(b) — The age of the adult;~~

8 ~~(c) — The nature and extent of the abuse or neglect, including any evidence of previous~~
9 ~~abuse or neglect;~~

10 ~~(d) — The identity of the perpetrator, if known;~~

11 ~~(e) — The identity of the complainant, if possible; and~~

12 ~~(f) — Any other information that the person believes might be helpful in establishing the~~
13 ~~cause of abuse or neglect.~~

14 ~~(5) — Upon receipt of the report, the cabinet shall take the following action:~~

15 ~~(a) — Notify the appropriate law enforcement agency, if indicated;~~

16 ~~(b) — Initiate an investigation of the complaint; and~~

17 ~~(c) — Make a written report of the initial findings together with a recommendation for~~
18 ~~further action, if indicated.~~

19 ~~(6) — Any representative of the cabinet may enter any health facility or health service~~
20 ~~licensed by the cabinet at any reasonable time to carry out the cabinet's~~
21 ~~responsibilities under this chapter.~~

22 ~~(7) — Any representative of the cabinet actively involved in the conduct of an abuse or~~
23 ~~neglect investigation under subsection (5) of this section shall also be allowed~~
24 ~~access to the mental and physical health records of the adult which are in the~~
25 ~~possession of any individual, hospital, or other facility if necessary to complete the~~
26 ~~investigation mandated by this section.~~

27 ~~(8) — Any representative of the cabinet may with consent of the adult enter any private~~

1 premises where any adult alleged to be abused or neglected is found in order to
 2 investigate the need for protective services for the purpose of carrying out the
 3 provisions of this chapter.

4 (9) ~~If a determination has been made that protective services are necessary when~~
 5 ~~indicated by the investigation, the cabinet shall provide such services within~~
 6 ~~budgetary limitations, except in such cases where an adult chooses to refuse such~~
 7 ~~services.~~

8 (10) ~~In the event the adult elects to accept the protective services to be provided by the~~
 9 ~~cabinet, no other person shall interfere with the cabinet when rendering such~~
 10 ~~services.~~

11 (11) ~~Anyone~~ **A professional** knowingly or wantonly violating the provisions of **this**
 12 **chapter** ~~[subsection (2) of this section]~~ shall be guilty of a Class B misdemeanor and
 13 penalized in accordance with KRS 532.090. Each violation shall constitute a
 14 separate offense.

15 ➔Section 8. KRS 209A.050 is repealed, reenacted, and amended to read as
 16 follows:

17 Anyone acting upon reasonable cause in **complying with the provisions of** ~~the~~
 18 ~~making of any report or investigation pursuant to~~ this chapter ~~[, including representatives~~
 19 ~~of the cabinet in the reasonable performance of their duties in good faith, and within the~~
 20 ~~scope of their authority,]~~ shall have immunity from any civil or criminal liability that
 21 might otherwise be incurred or imposed. Any such participant shall have the same
 22 immunity with respect to participation in any judicial proceeding resulting from such
 23 **compliance** ~~report or investigation and such immunity shall apply to those who render~~
 24 ~~protective services in good faith pursuant to the consent of the adult].~~

25 ➔Section 9. KRS 209A.060 is repealed, reenacted and amended to read as
 26 follows:

27 Neither the **psychotherapist** ~~[psychiatrist]~~-patient privilege nor the husband-wife privilege

1 shall be a ground for excluding evidence regarding the **domestic violence and abuse or**
2 **dating violence and abuse**~~[abuse, neglect, or exploitation of an adult]~~ or the cause thereof
3 in any judicial proceeding resulting from a report pursuant to this chapter.

4 ➔Section 10. KRS 209A.070 is repealed, reenacted, and amended to read as
5 follows:

6 All ~~[records, requests for services, and reports that contain]~~ information that
7 identifies a current or former client of a domestic violence program ~~is~~~~[are]~~ confidential
8 and shall not be disclosed by any person except as provided by law. The cabinet shall
9 have access to client **information**~~[records, requests for services, and reports]~~ relating to
10 any domestic violence program for the limited purpose of monitoring the program.

11 ➔Section 11. KRS 209.160 is repealed and reenacted as a new section of KRS
12 Chapter 209A to read as follows:

13 (1) There is hereby created a trust and agency account in the State Treasury to be
14 known as the domestic violence shelter fund. Each county clerk shall remit to the
15 fund, by the tenth of the month, ten dollars (\$10) from each twenty-four dollars
16 (\$24) collected during the previous month from the issuance of marriage licenses.
17 The fund shall be administered by the Department of Revenue. The Cabinet for
18 Health and Family Services shall use the funds for the purpose of providing
19 protective shelter services for domestic violence victims.

20 (2) The Cabinet for Health and Family Services shall designate one (1) nonprofit
21 corporation in each area development district to serve as the primary service
22 provider and regional planning authority for domestic violence shelter, crisis, and
23 advocacy services in the district in which the designated provider is located.

24 ➔Section 12. KRS 216B.400 is amended to read as follows:

25 (1) Where a person has been determined to be in need of emergency care by any person
26 with admitting authority, no such person shall be denied admission by reason only
27 of his or her inability to pay for services to be rendered by the hospital.

- 1 (2) Every hospital of this state which offers emergency services shall provide that a
2 physician, a sexual assault nurse examiner, who shall be a registered nurse licensed
3 in the Commonwealth and credentialed by the Kentucky Board of Nursing as
4 provided under KRS 314.142, or another qualified medical professional, as defined
5 by administrative regulation promulgated by the Justice and Public Safety Cabinet
6 in consultation with the Sexual Assault Response Team Advisory Committee as
7 defined in KRS 403.707, is available on call twenty-four (24) hours each day for the
8 examinations of persons seeking treatment as victims of sexual offenses as defined
9 by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120,
10 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.
- 11 (3) An examination provided in accordance with this section of a victim of a sexual
12 offense may be performed in a sexual assault examination facility as defined in
13 KRS 216B.015. An examination under this section shall apply only to an
14 examination of a victim.
- 15 (4) The physician, sexual assault nurse examiner, or other qualified medical
16 professional, acting under a statewide medical forensic protocol which shall be
17 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
18 Assault Response Team Advisory Committee as defined in KRS 403.707, and
19 promulgated by the secretary of justice and public safety pursuant to KRS Chapter
20 13A shall, upon the request of any peace officer or prosecuting attorney, and with
21 the consent of the victim, or upon the request of the victim, examine such person for
22 the purposes of providing basic medical care relating to the incident and gathering
23 samples that may be used as physical evidence. This examination shall include but
24 not be limited to:
- 25 (a) Basic treatment and sample gathering services; and
26 (b) Laboratory tests, as appropriate.
- 27 (5) Each victim shall be informed of available services for treatment of sexually

1 transmitted infections, pregnancy, and other medical and psychiatric problems.

2 Pregnancy counseling shall not include abortion counseling or referral information.

3 (6) Each victim shall be informed of available crisis intervention or other mental health
4 services provided by regional rape crisis centers providing services to victims of
5 sexual assault.

6 (7) Notwithstanding any other provision of law, a minor may consent to examination
7 under this section. This consent is not subject to disaffirmance because of minority,
8 and consent of the parents or guardians of the minor is not required for the
9 examination.

10 (8) (a) The examinations provided in accordance with this section shall be paid for by
11 the Crime Victims' Compensation Board at a rate to be determined by the
12 administrative regulation promulgated by the board after consultation with the
13 Sexual Assault Response Team Advisory Committee as defined in KRS
14 403.707.

15 (b) Upon receipt of a completed claim form supplied by the board and an
16 itemized billing for a forensic sexual assault examination or related services
17 that are within the scope of practice of the respective provider and were
18 performed no more than twelve (12) months prior to submission of the form,
19 the board shall reimburse the hospital or sexual assault examination facility,
20 pharmacist, health department, physician, sexual assault nurse examiner, or
21 other qualified medical professional as provided in administrative regulations
22 promulgated by the board pursuant to KRS Chapter 13A. Reimbursement
23 shall be made to an out-of-state nurse who is credentialed in the other state to
24 provide sexual assault examinations, an out-of-state hospital, or an out-of-
25 state physician if the sexual assault occurred in Kentucky.

26 (c) Independent investigation by the Crime Victims' Compensation Board shall
27 not be required for payment of claims under this section; however, the board

1 may require additional documentation or proof that the forensic medical
2 examination was performed.

3 (9) No charge shall be made to the victim for sexual assault examinations by the
4 hospital, the sexual assault examination facility, the physician, the pharmacist, the
5 health department, the sexual assault nurse examiner, other qualified medical
6 professional, the victim's insurance carrier, or the Commonwealth.

7 (10) (a) Each victim shall have the right to determine whether a report or other
8 notification shall be made to law enforcement, except where reporting of
9 abuse and neglect of a child or a~~[, spouse, and other]~~ vulnerable adult is
10 required, as set forth in KRS 209.030~~[, 209A.030,]~~ and 620.030. No victim
11 shall be denied an examination because the victim chooses not to file a police
12 report, cooperate with law enforcement, or otherwise participate in the
13 criminal justice system.

14 (b) If the victim chooses to report to law enforcement, the hospital shall notify
15 law enforcement within twenty-four (24) hours.

16 (c) 1. All samples collected during an exam where the victim has chosen not
17 to immediately report to law enforcement shall be stored, released, and
18 destroyed, if appropriate, in accordance with an administrative
19 regulation promulgated by the Justice and Public Safety Cabinet in
20 consultation with the Sexual Assault Response Team Advisory
21 Committee as defined in KRS 403.707.

22 2. Facilities collecting samples pursuant to this section may provide the
23 required secure storage, sample destruction, and related activities, or
24 may enter into agreements with other agencies qualified to do so,
25 pursuant to administrative regulation.

26 3. All samples collected pursuant to this section shall be stored for at least
27 one (1) year from the date of collection in accordance with the

1 administrative regulation promulgated pursuant to this subsection.

2 4. Notwithstanding KRS 524.140, samples collected during exams where
3 the victim chose not to report immediately or file a report within one (1)
4 year after collection may be destroyed as set forth in accordance with the
5 administrative regulation promulgated pursuant to this subsection. The
6 victim shall be informed of this process at the time of the examination.
7 No hospital, sexual assault examination facility, or designated storage
8 facility shall be liable for destruction of samples after the required
9 storage period has expired.

10 ➔Section 13. The following KRS sections are repealed:

11 209A.040 Cabinet's authority to promulgate administrative regulations on general adult
12 services.

13 209A.080 Confidentiality of spousal abuse or neglect investigation information --
14 Exceptions.