

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. If an
4 oral or written report, including but not limited to electronic submissions, alleging
5 that a child is dependent, neglected, or abused is made pursuant to this section, and
6 the cabinet determines that the report does not meet criteria for an investigation, the
7 cabinet shall refer the family to appropriate community-based child and family
8 service agencies for services to preserve and strengthen family life in accordance
9 with the requirements in 42 U.S.C. sec. 5106a.

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

- 14 (a) Persons suspected of causing dependency, neglect, or abuse;
- 15 (b) The custodial parent or legal guardian of the child alleged to be dependent,
16 neglected, or abused;
- 17 (c) Persons within the cabinet with a legitimate interest or responsibility related
18 to the case;
- 19 (d) A licensed child-caring facility or child-placing agency evaluating placement
20 for or serving a child who is believed to be the victim of an abuse, neglect, or
21 dependency report;
- 22 (e) Other medical, psychological, educational, or social service agencies, child
23 care administrators, corrections personnel, or law enforcement agencies,
24 including the county attorney's office, the coroner, and the local child fatality
25 response team, that have a legitimate interest in the case;
- 26 (f) A noncustodial parent when the dependency, neglect, or abuse is
27 substantiated;

- 1 (g) Members of multidisciplinary teams as defined by KRS 620.020 and which
2 operate pursuant to KRS 431.600;
- 3 (h) Employees or designated agents of a children's advocacy center;
- 4 (i) Those persons so authorized by court order; or
- 5 (j) The external child fatality and near fatality review panel established by KRS
6 620.055.
- 7 (6) (a) Files, reports, notes, photographs, records, electronic and other
8 communications, and working papers used or developed by a children's
9 advocacy center in providing services under this chapter are confidential and
10 shall not be disclosed except to the following persons:
- 11 1. Staff employed by the cabinet, law enforcement officers, and
12 Commonwealth's and county attorneys who are directly involved in the
13 investigation or prosecution of the case, including a cabinet
14 investigation or assessment of child abuse, neglect, and dependency in
15 accordance with this chapter;
 - 16 2. Medical and mental health professionals listed by name in a release of
17 information signed by the guardian of the child, provided that the
18 information shared is limited to that necessary to promote the physical
19 or psychological health of the child or to treat the child for abuse-related
20 symptoms;
 - 21 3. The court and those persons so authorized by a court order;
 - 22 4. The external child fatality and near fatality review panel established by
23 KRS 620.055;~~and~~
 - 24 5. The parties to an administrative hearing conducted by the cabinet or its
25 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
26 substantiated finding of abuse or neglect. The children's advocacy center
27 may, in its sole discretion, provide testimony in lieu of files, reports,

1 notes, photographs, records, electronic and other communications, and
2 working papers used or developed by the center if the center determines
3 that the release poses a threat to the safety or well-being of the child, or
4 would be in the best interests of the child. Following the administrative
5 hearing and any judicial review, the parties to the administrative hearing
6 shall return all files, reports, notes, photographs, records, electronic and
7 other communications, and working papers used or developed by the
8 children's advocacy center to the center; and

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

20 **a. The person, agency, or organization enters into a data-use**
21 **agreement with the cabinet and complies with the data security**
22 **and privacy conditions outlined by the Office of Data Analytics**
23 **within the cabinet;**

24 **b. Any confidential information provided for a research, quality**
25 **improvement, or evaluation project under this subparagraph**
26 **shall not be redisclosed. The cabinet shall not share personally**
27 **identifiable information under this subparagraph, except in**

1 cases where such information is essential to the completion of
 2 the project. For the purposes of this subdivision "personally
 3 identifiable information" means the current definition
 4 promulgated by the United States National Institute of Standards
 5 and Technology at the time of data sharing; and
 6 c. If a research or evaluation project results in the publication or
 7 public dissemination of related material, confidential
 8 information provided for a research, quality improvement, or
 9 evaluation project under this subparagraph shall not be
 10 disclosed in the results.

11 (b) The provisions of this subsection shall not be construed as to contravene the
 12 Rules of Criminal Procedure relating to discovery.

13 (7) Nothing in this section shall prohibit a parent or guardian from accessing records
 14 for his or her child providing that the parent or guardian is not currently under
 15 investigation by a law enforcement agency or the cabinet relating to the abuse or
 16 neglect of a child.

17 (8) Nothing in this section shall prohibit employees or designated agents of a children's
 18 advocacy center from disclosing information during a multidisciplinary team
 19 review of a child sexual abuse case as set forth under KRS 620.040. Persons
 20 receiving this information shall sign a confidentiality statement consistent with
 21 statutory prohibitions on disclosure of this information.

22 (9) Employees or designated agents of a children's advocacy center may confirm to
 23 another children's advocacy center that a child has been seen for services. If an
 24 information release has been signed by the guardian of the child, a children's
 25 advocacy center may disclose relevant information to another children's advocacy
 26 center.

27 (10) (a) An interview of a child recorded at a children's advocacy center shall not be

- 1 duplicated, except that the Commonwealth's or county attorney prosecuting
2 the case may:
- 3 1. Make and retain one (1) copy of the interview; and
 - 4 2. Make one (1) copy for the defendant's or respondent's counsel that the
5 defendant's or respondent's counsel shall not duplicate.
- 6 (b) The defendant's or respondent's counsel shall file the copy with the court clerk
7 at the close of the case.
- 8 (c) Unless objected to by the victim or victims, the court, on its own motion, or
9 on motion of the attorney for the Commonwealth shall order all recorded
10 interviews that are introduced into evidence or are in the possession of the
11 children's advocacy center, law enforcement, the prosecution, or the court to
12 be sealed.
- 13 (d) The provisions of this subsection shall not be construed as to contravene the
14 Rules of Criminal Procedure relating to discovery.
- 15 (11) Identifying information concerning the individual initiating the report under KRS
16 620.030 shall not be disclosed except:
- 17 (a) To law enforcement officials that have a legitimate interest in the case;
 - 18 (b) To the agency designated by the cabinet to investigate or assess the report;
 - 19 (c) To members of multidisciplinary teams as defined by KRS 620.020 that
20 operated under KRS 431.600;
 - 21 (d) Under a court order, after the court has conducted an in camera review of the
22 record of the state related to the report and has found reasonable cause to
23 believe that the reporter knowingly made a false report; or
 - 24 (e) The external child fatality and near fatality review panel established by KRS
25 620.055.
- 26 (12) (a) Information may be publicly disclosed by the cabinet in a case where child
27 abuse or neglect has resulted in a child fatality or near fatality.

- 1 (b) The cabinet shall conduct an internal review of any case where child abuse or
2 neglect has resulted in a child fatality or near fatality and the cabinet had prior
3 involvement with the child or family. The cabinet shall prepare a summary
4 that includes an account of:
- 5 1. The cabinet's actions and any policy or personnel changes taken or to be
6 taken, including the results of appeals, as a result of the findings from
7 the internal review; and
 - 8 2. Any cooperation, assistance, or information from any agency of the state
9 or any other agency, institution, or facility providing services to the
10 child or family that were requested and received by the cabinet during
11 the investigation of a child fatality or near fatality.
- 12 (c) The cabinet shall submit a report by September 1 of each year containing an
13 analysis of all summaries of internal reviews occurring during the previous
14 year and an analysis of historical trends to the Governor, the General
15 Assembly, and the state child fatality review team created under KRS
16 211.684.
- 17 (13) When an adult who is the subject of information made confidential by subsection
18 (5) of this section publicly reveals or causes to be revealed any significant part of
19 the confidential matter or information, the confidentiality afforded by subsection (5)
20 of this section is presumed voluntarily waived, and confidential information and
21 records about the person making or causing the public disclosure, not already
22 disclosed but related to the information made public, may be disclosed if disclosure
23 is in the best interest of the child or is necessary for the administration of the
24 cabinet's duties under this chapter.
- 25 (14) As a result of any report of suspected child abuse or neglect, photographs and X-
26 rays or other appropriate medical diagnostic procedures may be taken or caused to
27 be taken, without the consent of the parent or other person exercising custodial

1 control or supervision of the child, as a part of the medical evaluation or
2 investigation of these reports. These photographs and X-rays or results of other
3 medical diagnostic procedures may be introduced into evidence in any subsequent
4 judicial proceedings or an administrative hearing conducted by the cabinet or its
5 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
6 substantiated finding of child abuse or neglect. The person performing the
7 diagnostic procedures or taking photographs or X-rays shall be immune from
8 criminal or civil liability for having performed the act. Nothing herein shall limit
9 liability for negligence.

10 (15) In accordance with 42 U.S.C. sec. 671, the cabinet shall share information about a
11 child in the custody of the cabinet with a relative or a parent of the child's sibling
12 for the purposes of:

- 13 (a) Evaluating or arranging a placement for the child;
- 14 (b) Arranging appropriate treatment services for the child; or
- 15 (c) Establishing visitation between the child and a relative, including a sibling of
16 the child.

17 (16) In accordance with 42 U.S.C. sec. 671, the cabinet shall, in the case of siblings
18 removed from their home who are not jointly placed, provide for frequent visitation
19 or other ongoing interaction between the siblings, unless the cabinet determines that
20 frequent visitation or other ongoing interaction would be contrary to the safety or
21 well-being of any of the siblings.