

1 AN ACT relating to juvenile proceedings.

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

3 ➔Section 1. KRS 610.070 is amended to read as follows:

4 (1) All cases involving children brought before the court whose cases are under the  
5 jurisdiction of the court shall be granted a speedy hearing and shall be dealt with by  
6 the court without a jury.

7 (2) The hearings shall be conducted in a formal manner, unless specified to the contrary  
8 by other provisions of KRS Chapters 600 to 645.

9 (3) **(a)** The ***hearings shall be open to the***~~[general]~~ public, ***and*** ~~[shall be excluded and  
10 only the immediate families or guardians of the parties before the court,  
11 witnesses necessary for the prosecution and defense of the case, the probation  
12 worker with direct interest in the case, a representative from the Department  
13 of Juvenile Justice, the victim, his parent or legal guardian, or if emancipated,  
14 his spouse, or a legal representative of either, such persons admitted as the  
15 judge shall find have a direct interest in the case or in the work of the court,  
16 and such other persons as agreed to by the child and his attorney may be  
17 admitted to the hearing. A parent, legal guardian, or spouse if ]a witness shall  
18 be admitted to the hearing only during and after his ***or her*** testimony at the  
19 hearing~~], and witnesses shall be admitted to the hearing only for the duration  
20 of their testimony].~~~~

21 **(b)** **1.** The court may order the exclusion of a parent, legal guardian, or spouse,  
22 if it is shown to the satisfaction of the court that the parent, legal  
23 guardian, or spouse may physically disrupt the proceedings or may do  
24 violence to any participant therein.

25 **2.** The mere presence of a parent, legal guardian, or spouse shall not be  
26 deemed to be a disruption of the proceedings merely because their  
27 presence may make the defendant uncomfortable, ***and***~~;~~ the court shall

1 find a potential for actual physical disruption of the proceedings before  
2 an exclusion may be granted under~~[for]~~ this paragraph~~[reason]~~.

3 (4) The court may order the parents, guardians, or persons exercising custodial control  
4 over the child to be present at any hearing or other proceeding involving the child.

5 ➔Section 2. KRS 620.050 is amended to read as follows:

6 (1) Anyone acting upon reasonable cause in the making of a report or acting under  
7 KRS 620.030 to 620.050 in good faith shall not have immunity from any liability,  
8 civil or criminal, that might otherwise be incurred or imposed. ~~[Any such~~  
9 ~~participant shall have the same immunity with respect to participation in any~~  
10 ~~judicial proceeding resulting from such report or action. However, ]~~Any person  
11 who knowingly makes a false report ~~[and does so with malice ]~~shall be guilty of a  
12 Class A misdemeanor.

13 (2) Any employee or designated agent of a children's advocacy center shall not be  
14 immune from any civil liability arising from performance within the scope of the  
15 person's duties as provided in KRS 620.030 to 620.050. ~~[Any such person shall~~  
16 ~~have the same immunity with respect to participation in any judicial proceeding.~~  
17 ~~]Nothing in this subsection shall limit liability for negligence. Upon the request of~~  
18 an employee or designated agent of a children's advocacy center, the Attorney  
19 General shall provide for the defense of any civil action brought against the  
20 employee or designated agent as provided under KRS 12.211 to 12.215.

21 (3) Neither the husband-wife nor any professional-client/patient privilege, except the  
22 attorney-client and clergy-penitent privilege, shall be a ground for refusing to report  
23 under this section or for excluding evidence regarding a dependent, neglected, or  
24 abused child or the cause thereof, in any judicial proceedings resulting from a report  
25 pursuant to this section. This subsection shall also apply in any criminal proceeding  
26 in District or Circuit Court regarding a dependent, neglected, or abused child.

27 (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this

1 chapter, the cabinet as the designated agency or its delegated representative shall  
2 initiate a prompt investigation or assessment of family needs, take necessary action,  
3 and shall offer protective services toward safeguarding the welfare of the child. The  
4 cabinet shall work toward preventing further dependency, neglect, or abuse of the  
5 child or any other child under the same care, and preserve and strengthen family  
6 life, where possible, by enhancing parental capacity for adequate child care.

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

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

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

1           would be in the best interests of the child. Following the administrative  
2           hearing and any judicial review, the parties to the administrative hearing  
3           shall return all files, reports, notes, photographs, records, electronic and  
4           other communications, and working papers used or developed by the  
5           children's advocacy center to the center.

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

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

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

17          (9) Employees or designated agents of a children's advocacy center may confirm to  
18          another children's advocacy center that a child has been seen for services. If an  
19          information release has been signed by the guardian of the child, a children's  
20          advocacy center may disclose relevant information to another children's advocacy  
21          center.

22          (10) (a) An interview of a child recorded at a children's advocacy center shall not be  
23          duplicated, except that the Commonwealth's or county attorney prosecuting  
24          the case may:

- 25                 1. Make and retain one (1) copy of the interview; and
- 26                 2. Make one (1) copy for the defendant's or respondent's counsel that the  
27                 defendant's or respondent's counsel shall not duplicate.

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

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

1 substantiated finding of child abuse or neglect. The person performing the  
2 diagnostic procedures or taking photographs or X-rays shall be immune from  
3 criminal or civil liability for having performed the act. Nothing herein shall limit  
4 liability for negligence.

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

- 8 (a) Evaluating or arranging a placement for the child;  
9 (b) Arranging appropriate treatment services for the child; or  
10 (c) Establishing visitation between the child and a relative, including a sibling of  
11 the child.

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

17 **(17) It is the intention of the General Assembly to provide a means to enable a person**  
18 **injured by the Commonwealth; its cabinets, departments, bureaus, or agencies;**  
19 **its officers, agents, or employees while acting within the scope of their**  
20 **employment; its civil or political subdivisions; or the officers, agents, or**  
21 **employees of its civil or political subdivisions while acting within the scope of**  
22 **their employment; to be able to bring an action against persons acting pursuant**  
23 **to this section. The Commonwealth thereby waives the sovereign immunity**  
24 **defense only in the limited situations as set forth in subsections (1) and (2) of this**  
25 **section.**