

1 AN ACT relating to child abuse and declaring an emergency.

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

3 ➔ Section 1. KRS 500.050 is amended to read as follows:

4 (1) Except as otherwise expressly provided, the prosecution of a felony is not subject to
5 a period of limitation and may be commenced at any time.

6 (2) Except as otherwise expressly provided, the prosecution of an offense other than a
7 felony must be commenced within one (1) year after it is committed.

8 (3) **(a)** For a misdemeanor ~~sex~~ offense~~[under KRS Chapter 510]~~ when the victim is **a**
9 **minor**~~[under the age of eighteen (18)]~~ at the time of the offense, the
10 prosecution of the offense **is not subject to a period of limitation and may be**
11 **commenced at any time**~~[shall be commenced within five (5) years after the~~
12 ~~victim attains the age of eighteen (18) years]~~.

13 **(b) As used in paragraph (a) of this subsection, "misdemeanor sex offense"**
14 **means a misdemeanor offense in:**

15 **1. KRS Chapter 510;**

16 **2. KRS Chapter 531 involving a minor or depiction of a minor; or**

17 **3. KRS 506.010 or 506.030 for attempt to commit or solicitation to**
18 **commit;**

19 **a. Any of the offenses described in subparagraphs 1. and 2. of this**
20 **paragraph;**

21 **b. Promoting prostitution under KRS 529.040 when the defendant**
22 **advances or profits from the prostitution of a minor;**

23 **c. Human trafficking involving commercial sexual activity under**
24 **KRS 529.100;**

25 **d. Promoting human trafficking involving commercial sexual**
26 **activity under KRS 529.110; or**

27 **e. Unlawful transaction with a minor in the first degree under KRS**

1 **530.064(1)(a).**

2 (4) For purposes of this section, an offense is committed either when every element
3 occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly
4 appears, at the time when the course of conduct or the defendant's complicity
5 therein is terminated.

6 ➔ Section 2. KRS 413.249 is amended to read as follows:

7 (1) As used in this section:

8 (a) "Childhood sexual assault **or abuse**" means an act or series of acts against a
9 person less than eighteen (18) years old and which meets the criteria defining
10 a **misdemeanor or** felony **in:**

11 **1. KRS Chapter 510;**

12 **2. KRS 529.040 when the defendant advances or profits from the**
13 **prostitution of a minor;** [~~in KRS 510.040, 510.050, 510.060, 510.070,~~
14 ~~510.080, 510.090, 510.110,~~]

15 **3. KRS 529.100 when** [~~where~~] the offense involves commercial sexual
16 activity; [~~;~~]

17 **4. KRS 529.110 when** [~~where~~] the offense involves commercial sexual
18 activity; [~~;~~]

19 **5. KRS 530.020 or** [~~;~~] **530.064(1)(a);** [~~531.310, or 531.320~~]

20 **6. KRS Chapter 531 involving a minor or depiction of a minor; or**

21 **7. KRS 506.010 or 506.030 for attempt to commit or solicitation to**
22 **commit any of the offenses described in subparagraphs 1. to 6. of this**
23 **paragraph.**

24 No prior criminal prosecution or conviction of the civil defendant for the act
25 or series of acts shall be required to bring a civil action for redress of
26 childhood sexual assault **or abuse; and**

27 (b) [~~"Childhood sexual abuse" means an act or series of acts against a person less~~

1 ~~than eighteen (18) years old and which meets the criteria defining a~~
2 ~~misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150.~~
3 ~~No prior criminal prosecution or conviction of the civil defendant for the act~~
4 ~~or series of acts shall be required to bring a civil action for redress of~~
5 ~~childhood sexual abuse;~~

6 ~~(c) "Child" means a person less than eighteen (18) years old; and~~

7 ~~(d) "Injury or illness" means either a physical or psychological injury or illness.~~

8 (2) A civil action for recovery of damages for injury or illness suffered as a result of
9 childhood sexual assault or abuse~~[or childhood sexual assault]~~ **is not subject to a**
10 **period of limitation and may be commenced at any time**~~[shall be brought before~~
11 ~~whichever of the following periods last expires:~~

12 ~~(a) Within ten (10) years of the commission of the act or the last of a series of~~
13 ~~acts by the same perpetrator;~~

14 ~~(b) Within ten (10) years of the date the victim knew, or should have known, of~~
15 ~~the act;~~

16 ~~(c) Within ten (10) years after the victim attains the age of eighteen (18) years; or~~

17 ~~(d) Within ten (10) years of the conviction of a civil defendant for an offense~~
18 ~~included in the definition of childhood sexual abuse or childhood sexual~~
19 ~~assault.~~

20 ~~(3) If a complaint is filed alleging that an act of childhood sexual assault or childhood~~
21 ~~sexual abuse occurred more than ten (10) years prior to the date that the action is~~
22 ~~commenced, the complaint shall be accompanied by a motion to seal the record and~~
23 ~~the complaint shall immediately be sealed by the clerk of the court. The complaint~~
24 ~~shall remain sealed until:~~

25 ~~(a) The court rules upon the motion to seal;~~

26 ~~(b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is~~
27 ~~dismissed, the complaint and any related papers or pleadings shall remain~~

1 ~~sealed unless opened by a higher court; or~~
2 ~~(c) The defendant files an answer and a motion to seal the record upon grounds~~
3 ~~that a valid factual defense exists, to be raised in a motion for summary~~
4 ~~judgment pursuant to CR 56. The record shall remain sealed by the clerk until~~
5 ~~the court rules upon the defendant's motion to close the record. If the court~~
6 ~~grants the motion to close, the record shall remain sealed until the defendant's~~
7 ~~motion for summary judgment is granted. The complaint, motions, and other~~
8 ~~related papers or pleadings shall remain sealed unless opened by a higher~~
9 ~~court].~~

10 ➔Section 3. KRS 620.030 is amended to read as follows:

- 11 (1) Any person who knows or has reasonable cause to believe that a child is dependent,
12 neglected, or abused shall immediately cause an oral or written report to be made to
13 a local law enforcement agency or to the Department of Kentucky State Police, the
14 cabinet or its designated representative, the Commonwealth's attorney, or the county
15 attorney by telephone or otherwise. Any supervisor who receives from an employee
16 a report of suspected dependency, neglect, or abuse shall promptly make a report to
17 the proper authorities for investigation. If the cabinet receives a report of abuse or
18 neglect allegedly committed by a person other than a parent, guardian, fictive kin,
19 person in a position of authority, person in a position of special trust, or person
20 exercising custodial control or supervision, the cabinet shall refer the matter to the
21 Commonwealth's attorney or the county attorney and the local law enforcement
22 agency or the Department of Kentucky State Police. Nothing in this section shall
23 relieve individuals of their obligations to report.
- 24 (2) Any person, including but not limited to a physician, osteopathic physician, nurse,
25 teacher, school personnel, social worker, coroner, medical examiner, child-caring
26 personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical
27 technician, paramedic, health professional, mental health professional, peace

1 officer, or any organization or agency for any of the above, who knows or has
2 reasonable cause to believe that a child is dependent, neglected, or abused,
3 regardless of whether the person believed to have caused the dependency, neglect,
4 or abuse is a parent, guardian, fictive kin, person in a position of authority, person in
5 a position of special trust, person exercising custodial control or supervision, or
6 another person, or who has attended such child as a part of his or her professional
7 duties shall, if requested, in addition to the report required in subsection (1) or (3) of
8 this section, file with the local law enforcement agency or the Department of
9 Kentucky State Police, the cabinet or its designated representative, the
10 Commonwealth's attorney, or county attorney within forty-eight (48) hours of the
11 original report a written report containing:

- 12 (a) The names and addresses of the child and his or her parents or other persons
13 exercising custodial control or supervision;
14 (b) The child's age;
15 (c) The nature and extent of the child's alleged dependency, neglect, or abuse,
16 including any previous charges of dependency, neglect, or abuse, to this child
17 or his or her siblings;
18 (d) The name and address of the person allegedly responsible for the abuse or
19 neglect; and
20 (e) Any other information that the person making the report believes may be
21 helpful in the furtherance of the purpose of this section.

- 22 (3) Any person who knows or has reasonable cause to believe that a child is a victim of
23 human trafficking as defined in KRS 529.010 shall immediately cause an oral or
24 written report to be made to a local law enforcement agency or the Department of
25 Kentucky State Police; or the cabinet or its designated representative; or the
26 Commonwealth's attorney or the county attorney; by telephone or otherwise. This
27 subsection shall apply regardless of whether the person believed to have caused the

1 human trafficking of the child is a parent, guardian, fictive kin, person in a position
2 of authority, person in a position of special trust, or person exercising custodial
3 control or supervision.

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

11 (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is
12 limited to information received solely through confidential communications
13 with a clergy member, privately or in a confessional setting, when in the
14 course of the discipline or practice of the clergy member's church,
15 denomination, or organization, he or she is authorized or accustomed to
16 hearing those communications, and under the discipline, tenets, customs, or
17 practices of his or her church, denomination, or organization, has a duty to
18 keep those communications secret.

19 (5) The cabinet upon request shall receive from any agency of the state or any other
20 agency, institution, or facility providing services to the child or his or her family,
21 such cooperation, assistance, and information as will enable the cabinet to fulfill its
22 responsibilities under KRS 620.030, 620.040, and 620.050.

23 (6) Nothing in this section shall limit the cabinet's investigatory authority under KRS
24 620.050 or any other obligation imposed by law.

25 (7) Any person who intentionally violates the provisions of this section shall be guilty
26 of a f÷

27 ~~(a) Class B misdemeanor for the first offense;~~

1 ~~(b) Class A misdemeanor for the second offense; and~~

2 ~~(c) Class D felony for each subsequent offense.~~

3 ➔Section 4. 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 KRS
5 620.030 to 620.050 in good faith shall have immunity from any liability, civil or
6 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) (a) Neither the husband-wife nor any professional-client/patient privilege, except
19 the attorney-client and clergy-penitent privilege, shall be a ground for refusing
20 to report under this section or for excluding evidence regarding a dependent,
21 neglected, or abused child or the cause thereof, in any judicial proceedings
22 resulting from a report pursuant to this section. This subsection shall also
23 apply in any criminal proceeding in District or Circuit Court regarding a
24 dependent, neglected, or abused child.

25 (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is
26 limited to information received solely through confidential communications
27 with a clergy member, privately or in a confessional setting, when in the

course of the discipline or practice of the clergy member's church, denomination, or organization, he or she is authorized or accustomed to hearing those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

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

- (a) Persons suspected of causing dependency, neglect, or abuse;
- (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
- (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
- (d) A licensed child-caring facility or child-placing agency evaluating placement for or serving a child who is believed to be the victim of an abuse, neglect, or dependency report;
- (e) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality

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

1 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
2 substantiated finding of abuse or neglect. The children's advocacy center
3 may, in its sole discretion, provide testimony in lieu of files, reports,
4 notes, photographs, records, electronic and other communications, and
5 working papers used or developed by the center if the center determines
6 that the release poses a threat to the safety or well-being of the child, or
7 would be in the best interests of the child. Following the administrative
8 hearing and any judicial review, the parties to the administrative hearing
9 shall return all files, reports, notes, photographs, records, electronic and
10 other communications, and working papers used or developed by the
11 children's advocacy center to the center.

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

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

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

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

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

1 abuse or neglect has resulted in a child fatality or near fatality.

2 (b) The cabinet shall conduct an internal review of any case where child abuse or
3 neglect has resulted in a child fatality or near fatality and the cabinet had prior
4 involvement with the child or family. The cabinet shall prepare a summary
5 that includes an account of:

6 1. The cabinet's actions and any policy or personnel changes taken or to be
7 taken, including the results of appeals, as a result of the findings from
8 the internal review; and

9 2. Any cooperation, assistance, or information from any agency of the state
10 or any other agency, institution, or facility providing services to the child
11 or family that were requested and received by the cabinet during the
12 investigation of a child fatality or near fatality.

13 (c) The cabinet shall submit a report by September 1 of each year containing an
14 analysis of all summaries of internal reviews occurring during the previous
15 year and an analysis of historical trends to the Governor, the General
16 Assembly, and the state child fatality review team created under KRS
17 211.684.

18 (13) When an adult who is the subject of information made confidential by subsection
19 (5) of this section publicly reveals or causes to be revealed any significant part of
20 the confidential matter or information, the confidentiality afforded by subsection (5)
21 of this section is presumed voluntarily waived, and confidential information and
22 records about the person making or causing the public disclosure, not already
23 disclosed but related to the information made public, may be disclosed if disclosure
24 is in the best interest of the child or is necessary for the administration of the
25 cabinet's duties under this chapter.

26 (14) As a result of any report of suspected child abuse or neglect, photographs and X-
27 rays or other appropriate medical diagnostic procedures may be taken or caused to

1 be taken, without the consent of the parent or other person exercising custodial
2 control or supervision of the child, as a part of the medical evaluation or
3 investigation of these reports. These photographs and X-rays or results of other
4 medical diagnostic procedures may be introduced into evidence in any subsequent
5 judicial proceedings or an administrative hearing conducted by the cabinet or its
6 designee in accordance with KRS Chapter 13B in an appeal of a cabinet-
7 substantiated finding of child abuse or neglect. The person performing the
8 diagnostic procedures or taking photographs or X-rays shall be immune from
9 criminal or civil liability for having performed the act. Nothing herein shall limit
10 liability for negligence.

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

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

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

23 ➔Section 5. The restrictions of KRS 6.945(1) shall not apply to Sections 1 to 4 of
24 this Act.

25 ➔Section 6. If any provision of this Act or the application thereof to any person or
26 circumstance is held invalid, the invalidity shall not affect other provisions or
27 applications of the Act that can be given effect without the invalid provision or

- 1 application, and to this end the provisions of this Act are severable.
- 2 ➔Section 7. Whereas Kentucky has the highest rate of child abuse in the country,
- 3 an emergency is declared to exist, and this Act takes effect upon its passage and approval
- 4 by the Governor or upon its otherwise becoming a law.