

1 AN ACT relating to privacy.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO
4 READ AS FOLLOWS:

5 **(1) When a release of medical records, including mental health records of either**
6 **party to a divorce or custody proceeding under this chapter, is tendered pursuant**
7 **to the Family Court Rules of Practice and Procedure (FCRPP), those records**
8 **shall be delivered pursuant to the FCRPP guidelines.**

9 **(2) In the event either party objects to signing a release related to production of his**
10 **or her medical or mental health records, an individual with a legally recognized**
11 **interest in the disclosures sought may request an order authorizing the disclosure**
12 **of a party's medical or mental health records. The request shall:**

13 **(a) Use initials only to refer to any patient; and**

14 **(b) Not contain or otherwise disclose any patient-identifying information unless**
15 **the:**

16 **1. Patient is the applicant;**

17 **2. Patient has given written consent to disclose; or**

18 **3. Court has ordered the record of the proceeding sealed from the public.**

19 **(3) The patient and the person holding the records from whom disclosure is sought**
20 **shall be provided:**

21 **(a) Adequate notice in a manner that does not disclose patient-identifying**
22 **information to other persons; and**

23 **(b) An opportunity to file a written response to the request, or to appear in**
24 **person, for the limited purpose of providing evidence on the statutory and**
25 **regulatory criteria for the issuance of the court order as described in**
26 **subsection (5) of this section.**

27 **(4) Unless the patient requests an open hearing, any oral argument, review of**

1 evidence, or hearing on the request shall be held in the judge's chambers or in
2 some manner which ensures that patient-identifying information is not disclosed
3 to anyone other than a party to the proceeding, the patient, or the person holding
4 the record. The proceeding may include an examination by the judge of the
5 patient records referred to in the request.

6 (5) An order under subsection (2) of this section shall be entered only if the court
7 finds that:

8 (a) Other ways of obtaining the information are not available or would not be
9 effective; and

10 (b) The public interest and need for the disclosure outweigh the potential injury
11 to the patient, the physician-patient relationship, and the treatment services.

12 (6) All medical and mental health records used in proceedings under this chapter
13 shall be accompanied by an order which shall:

14 (a) Limit disclosure to those parts of the patient's record which are essential to
15 fulfill the objective of the order;

16 (b) Limit disclosure to those persons whose need for information is the basis for
17 the order; and

18 (c) Include other measures as are necessary to limit disclosure for the
19 protection of the patient, the physician-patient relationship, and the
20 treatment services, such as:

21 1. Limiting viewing of the records to in camera inspection;

22 2. Restricting discussion of the content of the medical or mental health
23 records with anyone who is not a party to the case;

24 3. Restricting copying, photographing, or otherwise duplicating records;
25 and

26 4. Sealing the record.

27 (7) A violation of an order entered under this section may subject the offender to the

1 contempt powers of the court.
2 (8) Nothing in this section shall be construed to restrict treatment providers or other
3 professionals involved in a court proceeding from collaborating or consulting
4 with one another or any other individual involved in the proceeding from
5 reporting a legitimate safety concern or incident of abuse to the appropriate
6 authorities.

7 ➔ Section 2. 2023 RS SB 62/EN is hereby amended to read as follows:

8 On page 3, line 1, after "person", insert "not".