

CHAPTER 3 COMMITTEES, MEETINGS, AND RECORDS

A. STATUTORY COMMITTEES, TEAMS, AND COUNCILS

1. Child Sexual Abuse Multidisciplinary Teams (MDTs)

a. Local MDTs

KRS 620.020(7) Definition of Multidisciplinary team (MDT). - Text included in Chapter 4, Section A.

KRS 620.040(7) MDT Membership & Operations.- Text included in Chapter 4, Section A.

KRS 431.600 Coordination of child sexual abuse investigations and prosecutions -- Protection of and counseling for child victims.

- (1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Health and Family Services. Cabinet for Health and Family Services social workers shall be available to assist in all investigations under this section but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, including those for victims of human trafficking, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.
- (2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.
- (3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.
- (4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.
- (5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.
- (6) Commonwealth's attorneys and county attorneys and the Cabinet for Health and Family Services and other team members shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.
- (7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as

appropriate, and to the child victim.

- (8) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with a child shall be conducted at a children’s advocacy center.

KRS 15.727 Duty of Commonwealth’s attorney and county attorney to assist child sexual abuse multidisciplinary team. – *Text included in Chapter 2, Section E. 2. a.*

40 KAR 3:020 Protocol for operation of local multidisciplinary teams on child sexual abuse.

Section 1. Incorporation of Reference.

- (1) The “Model Protocol for the Operation of Local Multidisciplinary Teams, September 1995 Edition” developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby incorporated by reference.
- (2) This document may be inspected, copied or obtained at the Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m. Monday through Friday.

NOTE: The Model Protocol is also available online at <https://ag.ky.gov/protecting-children/KMCCSA>

b. Kentucky Multidisciplinary Commission on Child Sexual Abuse

KRS 431.650 Kentucky Multidisciplinary Commission on Child Sexual Abuse.

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.
- (2) The commission shall be composed of the following members:
- (a) The commissioner of the Department for Community Based Services or a designee;
 - (b) The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities or a designee;
 - (c) One (1) social service worker who is employed by the Department for Community Based Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Health and Family Services;
 - (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Health and Family Services;
 - (e) The commissioner of the Department of Kentucky State Police or a designee;
 - (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice and Public Safety Cabinet;
 - (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
 - (h) Two (2) employees of the Attorney General’s Office who shall be appointed by the Attorney General;
 - (i) One (1) Commonwealth’s attorney who shall be appointed by the Attorney General;
 - (j) The commissioner of the Department of Education or a designee;
 - (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;
 - (l) The executive director of the Division of Child Abuse and Domestic Violence Services or a designee;
 - (m) One (1) representative of a children’s advocacy center who shall be appointed by the Governor;
 - (n) One (1) physician appointed by the Governor; and

- (o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.
- (3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.
- (4) The commission shall elect a chairperson annually from its membership.

KRS 431.660 Duties and powers of commission.

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse shall:
 - (a) Prepare and issue a model protocol for local multidisciplinary teams regarding investigation and prosecution of child sexual abuse and the role of children’s advocacy centers on multidisciplinary teams.
 - (b) Review and approve protocols prepared by local multidisciplinary teams.
 - (c) Advise local multidisciplinary teams on the investigation and prosecution of child sexual abuse.
 - (d) Receive data on child sexual abuse cases collected by the Prosecutors Advisory Council and issue annual reports.
 - (e) Collect data on the operation of local multidisciplinary teams.
 - (f) Seek funding to support special projects relating to the operation of local multidisciplinary teams.
 - (g) Receive and review complaints regarding local multidisciplinary teams, and make appropriate recommendations.
 - (h) Recommend to the Governor, Legislative Research Commission, and Supreme Court changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate effective intervention of child sexual abuse cases and the investigation and prosecution of perpetrators of child sexual abuse, and which may improve the opportunity for victims of child sexual abuse to receive treatment.
- (2) The Kentucky Multidisciplinary Commission on Child Sexual Abuse may, within budget limitations, establish and maintain necessary offices, appoint employees, and prescribe the duties and compensation for the appointed employees.

KRS 431.670 Attachment of commission to Office of the Attorney General.

For administrative purposes only, the Kentucky Multidisciplinary Commission on Child Sexual Abuse shall be attached to the Office of the Attorney General.

2. Sexual Assault Response Team Advisory Committee

KRS 403.707 Sexual Assault Response Team Advisory Committee.

- (1) The Sexual Assault Response Team Advisory Committee is established.
- (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Department of Kentucky State Police or the commissioner’s designee.
- (3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:
 - (a) The executive director of the Kentucky Board of Nursing or the executive director’s designee;
 - (b) The executive director of the Kentucky Nurses Association or the executive director’s designee;
 - (c) The executive director of the Kentucky Hospital Association or the executive director’s designee;
 - (d) The executive director of the Kentucky Association of Children’s Advocacy Centers;

- (e) The director of the Department of Kentucky State Police Crime Lab;
 - (f) The commissioner of the Department for Community Based Services or the commissioner's designee;
 - (g) The director of the Victims' Advocacy Division of the Office of the Attorney General or the director's designee;
 - (h) A sexual assault nurse examiner appointed by the secretary of the Cabinet for Health and Family Services;
 - (i) A representative from a sexual assault response team appointed by the executive director of the Kentucky Association of Sexual Assault Programs;
 - (j) A physician appointed by the secretary of the Cabinet for Health and Family Services; and
 - (k) A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the Attorney General.
- (4) Members appointed under subsection (3)(h) to (k) of this section shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.
- (5) The Sexual Assault Response Team Advisory Committee shall:
- (a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;
 - (b) Serve in an advisory capacity to the Justice and Public Safety Cabinet in the development of the statewide sexual assault protocol required under KRS 216B.400(4);
 - (c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;
 - (d) Provide assistance to each regional rape crisis center, as designated by the Cabinet for Health and Family Services, in establishing a regional sexual assault response team;
 - (e) Develop model policies for law enforcement agencies related to handling sexual assault examination kits and investigating sexual assaults with a victim-centered, evidence-based approach;
 - (f) By January 1, 2018, report to the General Assembly on the results of the analysis of previously untested sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory pursuant to 2016 Ky. Acts ch. 58, sec. 1, including whether analysis of those kits led to the identification and prosecution of suspects and the cost to society of the offenses committed by the suspects identified;
 - (g) By July 1, 2018, and by each July 1 thereafter, report to the General Assembly and to the secretary of the Justice and Public Safety Cabinet on the number of sexual assaults reported, the number of sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory, the number of kits tested, and the number of charges filed and convictions obtained in sexual assault cases in the previous calendar year;
 - (h) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and
 - (i) Recommend to the appropriate state agency any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

3. Domestic Violence Coordinating Councils & Fatality Review Teams

KRS 403.705 Domestic violence coordinating councils & Domestic violence Fatality review teams

- Duties.

- (1) One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.
- (2) Membership on local domestic violence coordinating councils may include, but not be limited

to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under KRS 421.570, family service workers employed by the Cabinet for Health and Family Services, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.

- (3) The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.
- (4) Local domestic violence coordinating councils shall develop a local protocol consistent with nationally recognized practice.
- (5) Local domestic violence coordinating councils may, if authorized by the local coroner or a medical examiner, create a domestic violence fatality review team, the purpose of which shall be to prevent future deaths and injuries related to domestic violence.
- (6) Domestic violence fatality review teams of local domestic violence coordinating councils may:
 - (a) Analyze information regarding local domestic violence fatalities to identify trends, patterns, and risk factors;
 - (b) Evaluate the effectiveness of local prevention and intervention strategies; and
 - (c) Recommend, to the appropriate state or local governmental agency, changes in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards that may facilitate the prevention of domestic violence fatalities. The fatality review team may establish a protocol for the investigation of domestic violence fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.
- (7) The review of a case by a domestic violence fatality review team may include information from reports generated or received by agencies, organizations, or individuals responsible for investigation, prosecution, or treatment in the case.
- (8) The proceedings, records, opinions, and deliberations of the domestic violence fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the domestic violence fatality review team.

4. Criminal Justice Council

KRS 15A.075 Criminal Justice Council - Membership - Duties - Administrative support.

- (1) The Criminal Justice Council is hereby created within the Justice and Public Safety Cabinet.
- (2) The council shall undertake such research and other activities as may be authorized or directed by:
 - (a) The secretary of the Justice and Public Safety Cabinet; or
 - (b) The General Assembly.
- (3) The membership of the council shall consist of:
 - (a) The secretary of the Justice and Public Safety Cabinet, ex officio;
 - (b) The Attorney General or his or her designee;
 - (c) The chair of the Judiciary Committee of the House of Representatives, nonvoting ex officio;
 - (d) The chair of the Judiciary Committee of the Senate, nonvoting ex officio;
 - (e) The director of the Administrative Office of the Courts, ex officio;
 - (f) The public advocate, ex officio;
 - (g) The president of the Kentucky Association of Criminal Defense Lawyers or his or her designee;
 - (h) The commissioner of the Department for Behavioral Health, Developmental and Intellectual

Disabilities, ex officio;

- (i) The commissioner of the Department of Kentucky State Police or his or her designee;
- (j) The commissioner of the Department of Corrections, ex officio;
- (k) The commissioner of the Department of Juvenile Justice, ex officio; and
- (l) Six (6) at-large members appointed by the Governor, as follows:
 - 1. One (1) District Judge and one (1) Circuit Judge nominated by the Chief Justice of the Kentucky Supreme Court;
 - 2. One (1) member representing law enforcement;
 - 3. One (1) member of the County Attorneys' Association;
 - 4. One (1) member of the Commonwealth Attorneys' Association; and
 - 5. One (1) member representing community-based organizations, whether for-profit or nonprofit, with experience in programs such as substance abuse prevention and treatment, case management, mental health, or counseling.
- (4) The chairs of the House and Senate Judiciary Committees shall serve as co-chairs.
- (5) At-large members shall be appointed by August 1, 2017, and shall serve a term of two (2) years, and may be reappointed.
- (6) Each ex officio member, except for legislative members, may designate a proxy by written notice to the council prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.
- (7) Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. The council shall meet at least quarterly. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
- (8) A simple majority of the members of the council shall constitute a quorum for the conduct of business at a meeting.
- (9) The council is authorized to establish committees and appoint additional persons who may not be members of the council, as necessary to effectuate its purposes.
- (10) The council's administrative functions shall be performed by the executive director of the Office of Legislative and Intergovernmental Services, appointed by the secretary of the Justice and Public Safety Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

5. State Child Sexual Abuse & Exploitation Prevention Board

KRS 15.900 Definitions for KRS 15.910 to 15.940.

As used in KRS 15.910 to 15.940:

- (1) "Child" means a person under eighteen (18) years of age;
- (2) "Child sexual abuse and exploitation" means harm to a child's health or welfare by any person, responsible or not for the child's health or welfare, which harm occurs or is threatened through nonaccidental sexual contact which includes violations of KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320, and 531.370;
- (3) "Local task force" means an organization which meets the criteria described in KRS 15.940;
- (4) "State board" means the State Child Sexual Abuse and Exploitation Prevention Board created in KRS 15.910;
- (5) "Prevention program" means a system of direct provision of child sexual abuse and exploitation prevention services to a child, parent, or guardian, but shall not include research programs related to prevention of child sexual abuse and exploitation; and
- (6) "Trust fund" means the child victims' trust fund established in the Office of the State Treasurer.

KRS 15.905 State Child Sexual Abuse and Exploitation Prevention Board.

- (1) The State Child Sexual Abuse and Exploitation Prevention Board is created as an autonomous agency within the Office of the Attorney General.
- (2) The state board may appoint an executive director of the state board to exercise the powers and carry out the duties of the state board.

KRS 15.910 Members of board - Terms - Chairman - Expenses.

- (1) The state board shall be composed of the following members:
 - (a) The secretary of the Cabinet for Health and Family Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the commissioner of the Department of Kentucky State Police, and the Attorney General, or designees authorized to speak on their behalf; and
 - (b) Ten (10) public members appointed by the Governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.
- (2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms, whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.
- (3) The Attorney General shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.
- (4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.

KRS 15.915 Public meetings and records.

- (1) The business which the state performs shall be conducted at a public meeting of the state board held in compliance with the Open Meetings Act.
- (2) A writing prepared, owned, used, in the possession of, or retained by the state board of the performance in an official function shall be made available to the public in compliance with the Open Records Act.

KRS 15.920 Duties of board.

- (1) The state board shall do all of the following:
 - (a) Meet not less than twice annually at the call of the chairperson;
 - (b) One (1) year after the original appointment of the state board, and biennially thereafter, develop a state plan for the distribution of funds from the trust fund. In developing the plan, the state board shall review already existing prevention programs. The plan shall assure that an equal opportunity exists for establishment of prevention programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the House of Representatives, to the clerk of the Senate, and to the Governor;

- (c) Provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;
 - (d) Develop and publicize criteria for the receipt of trust fund money by eligible local task forces and eligible prevention programs;
 - (e) Review, approve, and monitor the expenditure of trust fund money by local task forces and prevention programs;
 - (f) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the prevention of child sexual abuse and exploitation; encourage professional persons and groups to recognize and deal with prevention of child sexual abuse and exploitation; encourage and coordinate the development of local task forces; make information about the prevention of child sexual abuse and exploitation available to the public and organizations and agencies which deal with problems of child sexual abuse and exploitation; and encourage the development of community prevention programs; and
 - (g) Establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the state board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.
- (2) The state board may enter into contracts with public or private agencies to fulfill the requirements of this section. The state board shall utilize existing state resources and staff of participating departments whenever practicable.

KRS 15.925 Recommendations of board.

The state board may recommend to the Governor and the General Assembly changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of child sexual abuse and exploitation, improve coordination among state agencies that provide prevention services and improve the condition of children and parents or guardians who are in need of prevention program services.

KRS 15.930 Use of funds.

The state board may accept federal funds granted by the Congress or executive order for the purposes of KRS 15.900 to 15.940 as well as gifts and donations from individuals, private organizations, or foundations. All funds received in the manner described in this section shall be transmitted to the State Treasurer for deposit in the trust fund, and shall be made available for expenditure as appropriated by the General Assembly.

KRS 15.935 Purposes for disbursement of funds.

- (1) The state board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, for exclusively the following purposes, which are listed in the order of preference for expenditure:
- (a) To fund a private nonprofit or public organization in the development or operation of a prevention program if at least all of the following conditions are met:
 1. The appropriate local task force has reviewed and approved the program. This subparagraph does not apply if a local task force does not exist for the geographic area to be served by the program;
 2. The organization agrees to match fifty percent (50%) of the amount requested from the trust fund. At least ten percent (10%) of the amount requested shall be matched through dollars, and the remaining match shall be through in-kind contributions. The type of contributions shall be subject to the approval of the state board;
 3. The organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance; and

4. Other conditions that the state board may deem appropriate;
 - (b) To fund the cost of medical examinations of victims of suspected child sexual abuse to the extent the fee for an examination is a service not eligible to be paid for by Medicaid or private insurance. The fees paid for this examination shall not exceed reasonable, usual, and customary charges as set by the state board;
 - (c) To fund the cost of counseling and other mental health services to victims of child sexual abuse to the extent the fees for counseling and mental health services are services not eligible to be paid for by Medicaid or private insurance. The fees paid for counseling and mental health services shall not exceed reasonable, usual, and customary charges as set by the state board;
 - (d) To fund local task forces;
 - (e) To fund a statewide public education and awareness campaign on child sexual abuse, making use of electronic and print media to inform the public about the nature of child sexual abuse, legal reporting requirements, victim rights, legal remedies, agency services, and prevention strategies;
 - (f) To fund and evaluate the comparative success of statewide comprehensive approaches to prevention education making use of multiple approaches; and
 - (g) To fund the state board created in KRS 15.905 for the actual and necessary operating expenses that the board incurs in performing its duties.
- (2) Authorizations for disbursement of trust fund money under subsection (1)(g) of this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund which is to disburse money under subsections (1)(a), (b), (c), (d), (e), and (f) of this section to encourage the direct provision of services to prevent child abuse and exploitation, and to provide medical examination and counseling or other mental health services for victims of child sexual abuse.

KRS 41.400 Child victims' trust fund - Limitation on disbursement.

- (1) The child victims' trust fund is created as a separate fund in the office of the State Treasurer. The fund shall be expended only as provided in this section.
- (2) The State Treasurer shall credit to the trust fund all amounts received for this purpose and any amounts received under KRS 141.440.
- (3) The State Treasurer shall invest trust fund money in the same manner as surplus funds are invested. Earnings shall be credited to the trust fund.
- (4) Until the total amount of assets in the trust fund exceeds twenty million dollars (\$20,000,000), not more than one-half of the money contributed to the trust fund each year, plus the earnings credited to the trust fund during the previous fiscal year, and the money earned by the sale of child victims' trust fund license plates pursuant to KRS Chapter 186, shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935. After such time that the State Treasurer certifies that the assets in the trust fund exceed twenty million dollars (\$20,000,000), only the earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935.
- (5) Funds granted or funds received as gifts or donations to the child victims' trust fund shall be available for disbursement upon appropriation by the General Assembly, and funds authorized for expenditure shall not be considered assets for purposes of subsection (4) of this section.

KRS 15.940 Criteria for making grants to local task forces.

In making grants to a local task force, the state board shall consider the degree to which the local task force meets the following criteria:

- (1) Has as its primary purpose the development and facilitation of a collaborative community prevention program in a specific geographical area. The prevention program shall utilize trained volunteers and existing community resources wherever practicable;

- (2) Is comprised of local law enforcement and social services representatives and does not exclude any organization or person that the state board deems necessary;
- (3) Demonstrates a willingness and ability to provide prevention program models and consultation to organizations and communities regarding prevention program development and maintenance;
- (4) Agrees to match fifty percent (50%) of the amount requested from the trust fund. At least ten percent (10%) of the amount requested shall be matched through dollars, and the remaining match shall be through in-kind contributions. The amount and types of in-kind services are subject to the approval of the state board; and
- (5) Other criteria that the state board deems appropriate.

KRS 15.942 Training plan for investigation of child sexual abuse and protection of victims.

The Justice and Public Safety Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for Health and Family Services shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health-care professionals needed for implementation of training programs.

KRS 15.946 In-service training for peace officers on child sexual abuse.

The Kentucky Law Enforcement Council shall provide an in-service training program for peace officers in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each peace officer desiring to participate in the Kentucky Law Enforcement Foundation Fund program, if eligible to participate, shall successfully complete the in-service training.

KRS 15.948 Attorney General to have staff available specially trained in child sexual abuse - Assistance to prosecutors.

The Attorney General shall have staff available who are specially trained in child sexual abuse. Commonwealth's attorneys and county attorneys may request assistance in the investigation and prosecution of child sexual abuse cases in accordance with provisions of this chapter.

B. OPEN MEETINGS AND OPEN RECORDS ACTS

1. Open Meetings Act

KRS 61.800 Legislative statement of policy.

The General Assembly finds and declares that the basic policy of KRS 61.805 to 61.850 is that the formation of public policy is public business and shall not be conducted in secret and the exceptions provided for by KRS 61.810 or otherwise provided for by law shall be strictly construed.

KRS 61.805 Definitions for KRS 61.805 to 61.850.

As used in KRS 61.805 to 61.850, unless the context otherwise requires:

- (1) "Meeting" means all gatherings of every kind, including video teleconferences, regardless of where the meeting is held, and whether regular or special and informational or casual gatherings held in anticipation of or in conjunction with a regular or special meeting;
- (2) "Public agency" means:
 - (a) Every state or local government board, commission, and authority;
 - (b) Every state or local legislative board, commission, and committee;
 - (c) Every county and city governing body, council, school district board, special district board, and municipal corporation;
 - (d) Every state or local government agency, including the policy-making board of an institution

- of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;
- (e) Any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government;
- (f) Any entity when the majority of its governing body is appointed by a “public agency” as defined in paragraph (a), (b), (c), (d), (e), (g), or (h) of this subsection, a member or employee of a “public agency,” a state or local officer, or any combination thereof;
- (g) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, and controlled by a “public agency” as defined in paragraph (a), (b), (c), (d), (e), (f), or (h) of this subsection; and
- (h) Any interagency body of two (2) or more public agencies where each “public agency” is defined in paragraph (a), (b), (c), (d), (e), (f), or (g) of this subsection;
- (3) “Action taken” means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body; and
- (4) “Member” means a member of the governing body of the public agency and does not include employees or licensees of the agency.
- (5) “Video teleconference” means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment.

KRS 61.810 Exceptions to open meetings.

- (1) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times, except for the following:
 - (a) Deliberations for decisions of the Kentucky Parole Board;
 - (b) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency;
 - (c) Discussions of proposed or pending litigation against or on behalf of the public agency;
 - (d) Grand and petit jury sessions;
 - (e) Collective bargaining negotiations between public employers and their employees or their representatives;
 - (f) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee’s, member’s, or student’s right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret;
 - (g) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;
 - (h) State and local cabinet meetings and executive cabinet meetings;
 - (i) Committees of the General Assembly other than standing committees;
 - (j) Deliberations of judicial or quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the agency’s governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;
 - (k) Meetings which federal or state law specifically require to be conducted in privacy;
 - (l) Meetings which the Constitution provides shall be held in secret; and
 - (m) That portion of a meeting devoted to a discussion of a specific public record exempted

from disclosure under KRS 61.878(1)(m). However, that portion of any public agency meeting shall not be closed to a member of the Kentucky General Assembly.

- (n) Meetings of any selection committee, evaluation committee, or other similar group established under KRS Chapter 45A or 56 to select a successful bidder for award of a state contract.
- (2) Any series of less than quorum meetings, where the members attending one (1) or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (1) of this section, shall be subject to the requirements of subsection (1) of this section. Nothing in this subsection shall be construed to prohibit discussions between individual members where the purpose of the discussions is to educate the members on specific issues.

KRS 61.815 Requirements for conducting closed sessions.

- (1) Except as provided in subsection (2) of this section, the following requirements shall be met as a condition for conducting closed sessions authorized by KRS 61.810:
- (a) Notice shall be given in regular open meeting of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of KRS 61.810 authorizing the closed session;
- (b) Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;
- (c) No final action may be taken at a closed session; and
- (d) No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.
- (2) Public agencies and activities of public agencies identified in paragraphs (a), (c), (d), (e), (f), but only so far as (f) relates to students, (g), (h), (i), (j), (k), (l), and (m) of subsection (1) of KRS 61.810 shall be excluded from the requirements of subsection (1) of this section.

KRS 61.820 Schedule of regular meetings to be made available.

- (1) All meetings of all public agencies of this state, and any committees or subcommittees thereof, shall be held at specified times and places which are convenient to the public. In considering locations for public meetings, the agency shall evaluate space requirements, seating capacity, and acoustics.
- (2) All public agencies shall provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by whatever other means may be required for the conduct of business of that public agency. The schedule of regular meetings shall be made available to the public.

KRS 61.823 Special meetings - Emergency meetings.

- (1) Except as provided in subsection (5) of this section, special meetings shall be held in accordance with the provisions of subsections (2), (3), and (4) of this section.
- (2) The presiding officer or a majority of the members of the public agency may call a special meeting.
- (3) The public agency shall provide written notice of the special meeting. The notice shall consist of the date, time, and place of the special meeting and the agenda. Discussions and action at the meeting shall be limited to items listed on the agenda in the notice.
- (4) (a) As soon as possible, written notice shall be delivered personally, transmitted by facsimile machine, or mailed to every member of the public agency as well as each media organization which has filed a written request, including a mailing address, to receive notice of special meetings. The notice shall be calculated so that it shall be received at least twenty-four (24) hours before the special meeting. The public agency may periodically, but no more often than once in a calendar year, inform media organizations that they will have to submit a new written request or no longer receive written notice of special meetings until a new

written request is filed.

- (b) A public agency may satisfy the requirements of paragraph (a) of this subsection by transmitting the written notice by electronic mail to public agency members and media organizations that have filed a written request with the public agency indicating their preference to receive electronic mail notification in lieu of notice by personal delivery, facsimile machine, or mail. The written request shall include the electronic mail address or addresses of the agency member or media organization.
 - (c) As soon as possible, written notice shall also be posted in a conspicuous place in the building where the special meeting will take place and in a conspicuous place in the building which houses the headquarters of the agency. The notice shall be calculated so that it shall be posted at least twenty-four (24) hours before the special meeting.
- (5) In the case of an emergency which prevents compliance with subsections (3) and (4) of this section, this subsection shall govern a public agency's conduct of a special meeting. The special meeting shall be called pursuant to subsection (2) of this section. The public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request pursuant to subsection (4)(a) of this section, and the public of the emergency meeting. At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the record the emergency circumstances preventing compliance with subsections (3) and (4) of this section. These comments shall appear in the minutes. Discussions and action at the emergency meeting shall be limited to the emergency for which the meeting is called.

KRS 61.826 Video teleconferencing of meetings.

- (1) A public agency may conduct any meeting through video teleconference.
- (2) Notice of a video teleconference shall comply with the requirements of KRS 61.820 or 61.823 as appropriate. In addition, the notice of a video teleconference shall:
 - (a) Clearly state that the meeting will be a video teleconference; and
 - (b) Precisely identify a primary location of the video teleconference where all members can be seen and heard and the public may attend in accordance with KRS 61.840.
- (3) The same procedures with regard to participation, distribution of materials, and other matters shall apply in all video teleconference locations.
- (4) Any interruption in the video or audio broadcast of a video teleconference at any location shall result in the suspension of the video teleconference until the broadcast is restored.

KRS 61.835 Minutes to be recorded - Open to public.

The minutes of action taken at every meeting of any such public agency, setting forth an accurate record of votes and actions at such meetings, shall be promptly recorded and such records shall be open to public inspection at reasonable times no later than immediately following the next meeting of the body.

KRS 61.840 Conditions for attendance.

No condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency. No person may be required to identify himself in order to attend any such meeting. All agencies shall provide meeting room conditions, including adequate space, seating, and acoustics, which insofar as is feasible allow effective public observation of the public meetings. All agencies shall permit news media coverage, including but not limited to recording and broadcasting.

KRS 61.846 Enforcement by administrative procedure -- Appeal.

- (1) If a person enforces KRS 61.805 to 61.850 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section.

The person shall submit a written complaint to the presiding officer of the public agency suspected of the violation of KRS 61.805 to 61.850. The complaint shall state the circumstances which constitute an alleged violation of KRS 61.805 to 61.850 and shall state what the public agency should do to remedy the alleged violation. The public agency shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision. If the public agency makes efforts to remedy the alleged violation pursuant to the complaint, efforts to remedy the alleged violation shall not be admissible as evidence of wrongdoing in an administrative or judicial proceeding. An agency's response denying, in whole or in part, the complaint's requirements for remedying the alleged violation shall include a statement of the specific statute or statutes supporting the public agency's denial and a brief explanation of how the statute or statutes apply. The response shall be issued by the presiding officer, or under his authority, and shall constitute final agency action.

- (2) If a complaining party wishes the Attorney General to review a public agency's denial, the complaining party shall forward to the Attorney General a copy of the written complaint and a copy of the written denial within sixty (60) days from receipt by that party of the written denial. If the public agency refuses to provide a written denial, a complaining party shall provide a copy of the written complaint within sixty (60) days from the date the written complaint was submitted to the presiding officer of the public agency. The Attorney General shall review the complaint and denial and issue within ten (10) days, excepting Saturdays, Sundays, and legal holidays, a written decision which states whether the agency violated the provisions of KRS 61.805 to 61.850. In arriving at the decision, the Attorney General may request additional documentation from the agency. On the day that the Attorney General renders his decision, he shall mail a copy to the agency and a copy to the person who filed the complaint.
- (3) (a) If a public agency agrees to remedy an alleged violation pursuant to subsection (1) of this section, and the person who submitted the written complaint pursuant to subsection (1) of this section believes that the agency's efforts in this regard are inadequate, the person may complain to the Attorney General.
 - (b) The person shall provide to the Attorney General: 1. The complaint submitted to the public agency; 2. The public agency's response; and 3. A written statement of how the public agency has failed to remedy the alleged violation.
 - (c) The adjudicatory process set forth in subsection (2) of this section shall govern as if the public agency had denied the original complaint.
- (4) (a) A party shall have thirty (30) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the thirty (30) day time limit shall be treated as if it were an action brought under KRS 61.848.
 - (b) If an appeal is not filed within the thirty (30) day time limit, the Attorney General's decision, as to whether the agency violated the provisions of KRS 61.805 to 61.850, shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred.
- (5) A public agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding enforcement of KRS 61.805 to 61.850.

KRS 61.848 Enforcement by judicial action - De novo determination in appeal of Attorney General's decision - Voidability of action not substantially complying - Awards in willful violation actions.

- (1) The Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred shall have jurisdiction to enforce the provisions of KRS 61.805 to 61.850, as they pertain to that public agency, by injunction or other appropriate order on application of any person.

- (2) A person alleging a violation of the provisions of KRS 61.805 to 61.850 shall not have to exhaust his remedies under KRS 61.846 before filing suit in a Circuit Court. However, he shall file suit within sixty (60) days from his receipt of the written denial referred to in subsections (1) and (2) of KRS 61.846 or, if the public agency refuses to provide a written denial, within sixty (60) days from the date the written complaint was submitted to the presiding officer of the public agency.
- (3) In an appeal of an Attorney General’s decision, where the appeal is properly filed pursuant to subsection (4)(a) of KRS 61.846, the court shall determine the matter de novo.
- (4) Except as otherwise provided by law or rule of court, proceedings arising under this section take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.
- (5) Any rule, resolution, regulation, ordinance, or other formal action of a public agency without substantial compliance with the requirements of KRS 61.810, 61.815, 61.820, and KRS 61.823 shall be voidable by a court of competent jurisdiction.
- (6) Any person who prevails against any agency in any action in the courts regarding a violation of KRS 61.805 to 61.850, where the violation is found to be willful, may be awarded costs, including reasonable attorneys’ fees, incurred in connection with the legal action. In addition, it shall be within the discretion of the court to award the person an amount not to exceed one hundred dollars (\$100) for each instance in which the court finds a violation. Attorneys’ fees, costs, and awards under this subsection shall be paid by the agency responsible for the violation.

KRS 61.850 Construction.

KRS 61.805 to 61.850 shall not be construed as repealing any of the laws of the Commonwealth relating to meetings but shall be held and construed as ancillary and supplemental thereto.

2. Open Records Act

Note: Pursuant to the “Privacy Exception” of the Open Records Act, as interpreted by the Kentucky Supreme Court, information regarding sexual assault victims may be redacted from open records, including police reports. Additional information is included in Chapter 7, A.

KRS 61.870 Definitions for KRS 61.872 to 61.884.

As used in KRS 61.872 to 61.884, unless the context requires otherwise:

- (1) “Public agency” means:
 - (a) Every state or local government officer;
 - (b) Every state or local government department, division, bureau, board, commission, and authority;
 - (c) Every state or local legislative board, commission, committee, and officer;
 - (d) Every county and city governing body, council, school district board, special district board, and municipal corporation;
 - (e) Every state or local court or judicial agency;
 - (f) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;
 - (g) Any body created by state or local authority in any branch of government;
 - (h) Any body which derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds. However, any funds derived from a state or local authority in compensation for goods or services that are provided by a

- contract obtained through a public competitive procurement process shall not be included in the determination of whether a body is a public agency under this subsection;
- (i) Any entity where the majority of its governing body is appointed by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of this subsection; by a member or employee of such a public agency; or by any combination thereof;
 - (j) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established, created, and controlled by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this subsection; and
 - (k) Any interagency body of two (2) or more public agencies where each public agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of this subsection;
- (2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned or maintained by or for a body referred to in subsection (1)(h) of this section that are not related to functions, activities, programs, or operations funded by state or local authority;
- (3) (a) "Software" means the program code which makes a computer system function, but does not include that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system.
- (b) "Software" consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency;
- (4) (a) "Commercial purpose" means the direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee.
- (b) "Commercial purpose" shall not include:
- 1. Publication or related use of a public record by a newspaper or periodical;
 - 2. Use of a public record by a radio or television station in its news or other informational programs; or
 - 3. Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties;
- (5) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control;
- (6) "Custodian" means the official custodian or any authorized person having personal custody and control of public records;
- (7) "Media" means the physical material in or on which records may be stored or represented, and which may include, but is not limited to paper, microform, disks, diskettes, optical disks, magnetic tapes, and cards; and
- (8) "Mechanical processing" means any operation or other procedure which is transacted on a machine, and which may include, but is not limited to a copier, computer, recorder or tape processor, or other automated device.
- (9) "Booking photograph and photographic record of inmate" means a photograph or image of an individual generated by law enforcement for identification purposes when the individual is booked into a detention facility as defined in KRS 520.010 or photograph and image of an inmate taken pursuant to KRS 196.099.

KRS 61.871 Policy of KRS 61.870 to 61.884 - Strict construction of exceptions of KRS 61.878.

The General Assembly finds and declares that the basic policy of KRS 61.870 to 61.884 is that free and open examination of public records is in the public interest and the exceptions provided for by KRS 61.878 or otherwise provided by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others.

KRS 61.8715 Legislative findings.

The General Assembly finds an essential relationship between the intent of this chapter and that of KRS 171.410 to 171.740, dealing with the management of public records, and of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146, dealing with the coordination of strategic planning for computerized information systems in state government; and that to ensure the efficient administration of government and to provide accountability of government activities, public agencies are required to manage and maintain their records according to the requirements of these statutes. The General Assembly further recognizes that while all government agency records are public records for the purpose of their management, not all these records are required to be open to public access, as defined in this chapter, some being exempt under KRS 61.878.

KRS 61.872 Right to inspection - Limitation.

- (1) All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.
- (2) Any person shall have the right to inspect public records. The official custodian may require written application, signed by the applicant and with his name printed legibly on the application, describing the records to be inspected. The application shall be hand delivered, mailed, or sent via facsimile to the public agency.
- (3) A person may inspect the public records:
 - (a) During the regular office hours of the public agency; or
 - (b) By receiving copies of the public records from the public agency through the mail. The public agency shall mail copies of the public records to a person whose residence or principal place of business is outside the county in which the public records are located after he precisely describes the public records which are readily available within the public agency. If the person requesting the public records requests that copies of the records be mailed, the official custodian shall mail the copies upon receipt of all fees and the cost of mailing.
- (4) If the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.
- (5) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection.
- (6) If the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section shall be sustained by clear and convincing evidence.

KRS 61.874 Abstracts, memoranda, copies -- Agency may prescribe fee -- Use of nonexempt public records for commercial purposes -- Online access.

- (1) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all public records not exempted by the terms of KRS 61.878. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee, including postage where appropriate. If the applicant desires copies of public records other than written records, the custodian of the records shall duplicate the records or permit the applicant to duplicate the records; however, the custodian shall ensure that such duplication will not damage or alter the original records.
- (2) (a) Nonexempt public records used for noncommercial purposes shall be available for copying in either standard electronic or standard hard copy format, as designated by the party requesting the records, where the agency currently maintains the records in electronic format. Nonexempt public records used for noncommercial purposes shall be copied in standard hard copy format where agencies currently maintain records in hard copy format. Agencies are not required to convert hard copy format records to electronic formats.
(b) The minimum standard format in paper form shall be defined as not less than 8 1/2 inches x 11 inches in at least one (1) color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and this format conforms to the requestor's requirements, the public record may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.
- (3) The public agency may prescribe a reasonable fee for making copies of nonexempt public records requested for use for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff required. If a public agency is asked to produce a record in a nonstandardized format, or to tailor the format to meet the request of an individual or a group, the public agency may at its discretion provide the requested format and recover staff costs as well as any actual costs incurred.
- (4) (a) Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the public agency may establish a reasonable fee.
(b) The public agency from which copies of nonexempt public records are requested for a commercial purpose may require a certified statement from the requestor stating the commercial purpose for which they shall be used, and may require the requestor to enter into a contract with the agency. The contract shall permit use of the public records for the stated commercial purpose for a specified fee.
(c) The fee provided for in subsection (a) of this section may be based on one or both of the following:
 1. Cost to the public agency of media, mechanical processing, and staff required to produce a copy of the public record or records;
 2. Cost to the public agency of the creation, purchase, or other acquisition of the public records.
- (5) It shall be unlawful for a person to obtain a copy of any part of a public record for a:
 - (a) Commercial purpose, without stating the commercial purpose, if a certified statement from the requestor was required by the public agency pursuant to subsection (4)(b) of this section; or
 - (b) Commercial purpose, if the person uses or knowingly allows the use of the public record for a different commercial purpose; or

- (c) Noncommercial purpose, if the person uses or knowingly allows the use of the public record for a commercial purpose. A newspaper, periodical, radio or television station shall not be held to have used or knowingly allowed the use of the public record for a commercial purpose merely because of its publication or broadcast, unless it has also given its express permission for that commercial use.
- (6) Online access to public records in electronic form, as provided under this section, may be provided and made available at the discretion of the public agency. If a party wishes to access public records by electronic means and the public agency agrees to provide online access, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for these agreements. Fees shall not exceed:
 - (a) The cost of physical connection to the system and reasonable cost of computer time access charges; and
 - (b) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in subsection (4) of this section.

KRS 61.8745 Damages recoverable by public agency for person's misuse of public records.

A person who violates subsections (2) to (6) of KRS 61.874 shall be liable to the public agency from which the public records were obtained for damages in the amount of:

- (1) Three (3) times the amount that would have been charged for the public record if the actual commercial purpose for which it was obtained or used had been stated;
- (2) Costs and reasonable attorney's fees; and
- (3) Any other penalty established by law.

KRS 61.8746 Commercial use of booking photographs or official inmate photographs prohibited -- Conditions -- Right of action -- Damages.

- (1) A person shall not utilize a booking photograph or a photograph of an inmate taken pursuant to KRS 196.099 originally obtained from a public agency for a commercial purpose if: (a) The photograph will be placed in a publication or posted on a Web site; and (b) Removal of the photograph from the publication or Web site requires the payment of a fee or other consideration.
- (2) Any person who has requested the removal of a booking photograph or photo taken pursuant to KRS 196.099 of himself or herself: (a) Which was subsequently placed in a publication or posted on a Web site; and (b) Whose removal requires the payment of a fee or other consideration; shall have a right of action in Circuit Court by injunction or other appropriate order and may also recover costs and reasonable attorney's fees. (3) At the court's discretion, any person found to have violated this section in an action brought under subsection (2) of this section, may be liable for damages for each separate violation, in an amount not less than: (a) One hundred (\$100) dollars a day for the first thirty (30) days; (b) Two hundred and fifty (\$250) dollars a day for the subsequent thirty (30) days; and (c) Five hundred (\$500) dollars a day for each day thereafter. If a violation is continued for more than one (1) day, each day upon which the violation occurs or is continued shall be considered and constitute a separate violation.

KRS 61.876 Agency to adopt rules and regulations.

- (1) Each public agency shall adopt rules and regulations in conformity with the provisions of KRS 61.870 to 61.884 to provide full access to public records, to protect public records from damage and disorganization, to prevent excessive disruption of its essential functions, to provide assistance and information upon request and to insure efficient and timely action in response to application for inspection, and such rules and regulations shall include, but shall not be limited to:
 - (a) The principal office of the public agency and its regular office hours;
 - (b) The title and address of the official custodian of the public agency's records;

- (c) The fees, to the extent authorized by KRS 61.874 or other statute, charged for copies;
- (d) The procedures to be followed in requesting public records.
- (2) Each public agency shall display a copy of its rules and regulations pertaining to public records in a prominent location accessible to the public.
- (3) The Finance and Administration Cabinet may promulgate uniform rules and regulations for all state administrative agencies.

KRS 61.878 Certain public records exempted from inspection except on order of court -Restriction of state employees to inspect personnel files prohibited.

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
 - (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;
 - (c)
 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;
 2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:
 - a. In conjunction with an application for or the administration of a loan or grant;
 - b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;
 - c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or
 - d. For the grant or review of a license to do business.
 3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;
 - (d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;
 - (e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;
 - (f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;
 - (g) Test questions, scoring keys, and other examination data used to administer a licensing

examination, examination for employment, or academic examination before the exam is given or if it is to be given again;

- (h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;
- (i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;
- (j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;
- (k) All public records or information the disclosure of which is prohibited by federal law or regulation;
- (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly;
- (m)
 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:
 - a. Criticality lists resulting from consequence assessments;
 - b. Vulnerability assessments;
 - c. Antiterrorism protective measures and plans;
 - d. Counterterrorism measures and plans;
 - e. Security and response needs assessments;
 - f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
 - g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and
 - h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.
 2. As used in this paragraph, "terrorist act" means a criminal act intended to:
 - a. Intimidate or coerce a public agency or all or part of the civilian population;
 - b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
 - c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.
 3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the

Kentucky Office of Homeland Security and the Attorney General.

4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.
 5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;
 - (n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law.
 - (o) Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:
 1. A contract is awarded; or
 2. The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited; and
 - (p) Communications of a purely personal nature unrelated to any governmental function.
- (2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.
 - (3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.
 - (4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.
 - (5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

KRS 61.880 Denial of inspection - Role of Attorney General.

- (1) If a person enforces KRS 61.870 to 61.884 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section. Each public agency, upon any request for records made under KRS 61.870 to 61.884, shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the three (3) day period, of its decision. An agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority, and it shall constitute final agency action.
- (2) (a) If a complaining party wishes the Attorney General to review a public agency's denial of

a request to inspect a public record, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written response denying inspection. If the public agency refuses to provide a written response, a complaining party shall provide a copy of the written request. The Attorney General shall review the request and denial and issue within twenty (20) days, excepting Saturdays, Sundays and legal holidays, a written decision stating whether the agency violated provisions of KRS 61.870 to 61.884.

- (b) In unusual circumstances, the Attorney General may extend the twenty (20) day time limit by sending written notice to the complaining party and a copy to the denying agency, setting forth the reasons for the extension, and the day on which a decision is expected to be issued, which shall not exceed an additional thirty (30) work days, excepting Saturdays, Sundays, and legal holidays. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper resolution of an appeal:
 - 1. The need to obtain additional documentation from the agency or a copy of the records involved;
 - 2. The need to conduct extensive research on issues of first impression; or
 - 3. An unmanageable increase in the number of appeals received by the Attorney General.
 - (c) On the day that the Attorney General renders his decision, he shall mail a copy to the agency and a copy to the person who requested the record in question. The burden of proof in sustaining the action shall rest with the agency, and the Attorney General may request additional documentation from the agency for substantiation. The Attorney General may also request a copy of the records involved but they shall not be disclosed.
- (3) Each agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding the enforcement of KRS 61.870 to 61.884. The Attorney General shall not, however, be named as a party in any Circuit Court actions regarding the enforcement of KRS 61.870 to 61.884, nor shall he have any duty to defend his decision in Circuit Court or any subsequent proceedings.
- (4) If a person feels the intent of KRS 61.870 to 61.884 is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees or the misdirection of the applicant, the person may complain in writing to the Attorney General, and the complaint shall be subject to the same adjudicatory process as if the record had been denied.
- (5) (a) A party shall have thirty (30) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the thirty (30) day time limit shall be treated as if it were an action brought under KRS 61.882.
- (b) If an appeal is not filed within the thirty (30) day time limit, the Attorney General's decision shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or the Circuit Court of the county where the public record is maintained.

KRS 61.882 Jurisdiction of Circuit Court in action seeking right of inspection - Burden of proof - Costs - Attorney fees.

- (1) The Circuit Court of the county where the public agency has its principal place of business or the Circuit Court of the county where the public record is maintained shall have jurisdiction to enforce the provisions of KRS 61.870 to 61.884, by injunction or other appropriate order on application of any person.
- (2) A person alleging a violation of the provisions of KRS 61.870 to 61.884 shall not have to exhaust his remedies under KRS 61.880 before filing suit in a Circuit Court.
- (3) In an appeal of an Attorney General's decision, where the appeal is properly filed pursuant to KRS 61.880(5)(a), the court shall determine the matter de novo. In an original action or an appeal of an Attorney General's decision, where the appeal is properly filed pursuant to KRS 61.880(5)(a), the burden of proof shall be on the public agency. The court on its own motion,

or on motion of either of the parties, may view the records in controversy in camera before reaching a decision. Any noncompliance with the order of the court may be punished as contempt of court.

- (4) Except as otherwise provided by law or rule of court, proceedings arising under this section take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.
- (5) Any person who prevails against any agency in any action in the courts regarding a violation of KRS 61.870 to 61.884 may, upon a finding that the records were willfully withheld in violation of KRS 61.870 to 61.884, be awarded costs, including reasonable attorney's fees, incurred in connection with the legal action. If such person prevails in part, the court may in its discretion award him costs or an appropriate portion thereof. In addition, it shall be within the discretion of the court to award the person an amount not to exceed twenty-five dollars (\$25) for each day that he was denied the right to inspect or copy said public record. Attorney's fees, costs, and awards under this subsection shall be paid by the agency that the court determines is responsible for the violation.

KRS 61.884 Person's access to record relating to him.

Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of KRS 61.878.

KRS 61.168 Body-worn cameras and video and audio recordings -- Disclosure, retention, and availability for viewing governed by KRS 61.870 to 61.884 and 171.410 to 171.740 -- Exceptions.

(1) As used in this section:

- (a) "Body-worn camera" means a video or audio electronic recording device that is carried by or worn on the body of a public safety officer. This definition does not include a dashboard mounted camera or recording device used in the course of clandestine investigations;
 - (b) "Body-worn camera recording" or "recording" means a video or audio recording, or both, that is made by a body-worn camera during the course of a public safety officer's official duties;
 - (c) "Personal representative" means a court-appointed guardian, attorney, or agent possessing written authorization to act on behalf of a person that is involved in an incident contained in a body-worn camera recording, a person holding a power of attorney for a person that is involved in an incident contained in a body-worn camera recording, or the parent or guardian of a minor child depicted in a body-worn camera recording. If a person depicted in the recording is deceased, the term also means the personal representative of the estate of the deceased person, the deceased person's surviving spouse, parent, or adult child, the deceased person's attorney, or the parent or guardian of a surviving minor child of the deceased;
 - (d) "Public agency" has the same meaning as in KRS 61.870(1);
 - (e) "Public safety officer" means any individual that is an employee of a public agency who is certified as a first responder under KRS Chapter 311A or whose employment duties include law enforcement or firefighting activities; and
 - (f) "Use of force" means any action by a public safety officer that results in death, physical injury as defined in KRS 500.080(13), discharge of a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy weapon, or a firearm, or involves the intentional pointing of a public safety officer's firearm at a member of the public.
- (2) Except as provided in this section, the disclosure of body-worn camera recordings shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to 61.884.
 - (3) The retention of body-worn camera video recordings shall be governed by KRS 171.410 to 171.740, and the administrative regulations promulgated by the Kentucky Department of

Libraries and Archives.

- (4) Notwithstanding KRS 61.878(4), unless the request meets the criteria provided under subsection (5) of this section, a public agency may elect not to disclose bodyworn camera recordings containing video or audio footage that:
- (a) Includes the interior of a place of a private residence where there is a reasonable expectation of privacy, unless the legal owner or lessee with legal possession of the residence requests in writing that the release be governed solely under the provisions of KRS 61.870 to 61.884;
 - (b) Includes the areas inside of a medical facility, counseling, or therapeutic program office where a patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment;
 - (c) Would disclose health care information shared with patients, their families, or with a patient's care team or that is considered protected health information under the Health Insurance Portability and Accountability Act of 1996;
 - (d) Includes the areas inside of a correctional facility when disclosure would reveal details of the facility that would jeopardize the safety, security, or wellbeing of those in custody, the staff of the correctional facility, or law enforcement officers;
 - (e) Is of a sexual nature or video footage that contains nude images of an individual's genitals, pubic area, anus, or the female nipple;
 - (f) Is of a minor child, including but not limited to footage involving juvenile custody matters;
 - (g) Includes the body of a deceased individual;
 - (h) Would reveal the identity of witnesses, confidential law enforcement informants, or undercover law enforcement officers, or if the release could jeopardize the safety, security, or well-being of a witness or confidential informant;
 - (i) Would reveal the location information of a domestic violence program or emergency shelter;
 - (j) Would reveal information related to schools, colleges, and universities that is protected by the federal Family Educational Rights and Privacy Act;
 - (k) Would result in the disclosure of nonpublic or confidential data classified as Criminal Justice Information Services data by the Federal Bureau of Investigation;
 - (l) Includes a public safety officer carrying out duties directly related to the hospitalization of persons considered mentally ill;
 - (m) Includes the depiction of the serious injury or death of a public safety officer; or
 - (n) Includes footage made in conjunction with a law enforcement exercise that includes special response team actions, hostage negotiations, or training events, but only where the public release of tactics, operational protocol, or methodology would disadvantage the capability of public safety officers to successfully respond in emergency or other dangerous situations.
- (5) If the recording contains video or audio footage that:
- (a) Depicts an encounter between a public safety officer where there is a use of force, the disclosure of the record shall be governed solely by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein;
 - (b) Depicts an incident which leads to the detention or arrest of an individual or individuals, the disclosure of the record shall be governed solely by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein;
 - (c) Depicts an incident which is the subject of a formal complaint submitted against a public safety officer under KRS 15.520, 67C.326, or 95.450, or depicts an incident which is the subject of a formal legal or administrative complaint against the agency employing the public safety officer, the release of the record shall be governed by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein; or
 - (d) Is requested by a person or other entity or the personal representative of a person or entity that is directly involved in the incident contained in the bodyworn camera recording, it shall be made available by the public agency to the requesting party for viewing on the premises

of the public agency, but the public agency shall not be required to make a copy of the recording except as provided in KRS 61.169. The requesting parties shall not be limited in the number of times they may view the recording under this paragraph.

- (6) Nothing in this section or KRS 61.169 shall be interpreted to override any provision related to:
 - (a) Reports by law enforcement officers and criminal justice agencies under KRS 17.150;
 - (b) The law and rules governing discovery or the submission and display of evidence in any court proceeding, whether criminal or civil, or any administrative proceeding; or
 - (c) The provisions of KRS 189A.100.