



## Select Victims' Rights – Kentucky

### USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in Kentucky and promising practices to ensure compliance with and enforcement of those rights. To keep this *Guide* as user-friendly as possible in light of the breadth, complexity and evolving nature of law, the *Guide* does not include all laws. The *Guide* is intended for informational purposes only. It does not constitute legal advice, nor does it substitute for legal advice. For more in-depth information about the laws governing privacy, confidentiality and privilege in Kentucky, see the companion resource: *Law Enforcement-Based Victim Services in Kentucky: Privacy, Privilege and Confidentiality*.

The following icons are used throughout this resource to highlight key moments for the user.



= Promising Practices: As used in this *Guide*, the “promising practices” indicator highlights procedures, methods or techniques, grounded in victim-centered and trauma-informed research and experience, that afford victims meaningful rights in the justice system.



= Take Note: As used in this *Guide*, the “take note” indicator provides context for the law cited or discussed. For example, if a law has a particularly narrow application or does not explicitly prohibit an action the “take note” indicator is used to highlight or provide clarity around the law.

This draft publication was developed by the National Crime Victim Law Institute (NCVLI) under 2018-V3-GX-K049, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this draft publication are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.



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<sup>1</sup> This table of contents and index of rights provides specific page references for many of the victims' rights laws contained within this *Guide*. The referenced laws are often narrower in scope than the broader rights identified in the index and may contain components of multiple core rights. Not all of the laws contained within this *Guide* are referenced in the table of contents and index; therefore, it is recommended that this document be reviewed in full.


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SELECT DEFINITIONS	Kentucky Statutes and Rules
<p><b>Crime Victim Bill of Rights Definitions.</b></p> <p>As used in KRS 421.500 to 421.575, “victim” means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as stalking, unlawful imprisonment, use of a minor in a sexual performance, unlawful transaction with a minor in the first degree, terroristic threatening, menacing, harassing communications, intimidating a witness, criminal homicide, robbery, rape, assault, sodomy, kidnapping, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse, human trafficking, or incest. If the victim is a minor or legally incapacitated, “victim” means a parent, guardian, custodian or court-appointed special advocate.</p> <p>(a) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as “victim” for the purpose of exercising those rights contained in KRS 421.500 to 421.575:</p> <ol style="list-style-type: none"> <li>1. The spouse;</li> <li>2. An adult child if subparagraph 1. of this paragraph does not apply;</li> <li>3. A parent if subparagraphs 1. and 2. of this paragraph do not apply;</li> <li>4. A sibling if subparagraphs 1. to 3. of this paragraph do not apply; and</li> <li>5. A grandparent if subparagraphs 1. to 4. of this paragraph do not apply.</li> </ol> <p>(b) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as “victims” for the purpose of presenting victim impact testimony under KRS 532.055(2)(a)7.:</p> <ol style="list-style-type: none"> <li>1. A spouse;</li> <li>2. An adult child;</li> <li>3. A parent;</li> <li>4. A sibling; and</li> <li>5. A grandparent.</li> </ol>	<p>Ky. Rev. Stat. Ann. § 421.500(1).</p>

 These definitions explicitly apply to the Kentucky Crime Victim Bill of Rights, Ky. Rev. Stat. Ann. §§ 421.500 to 421.575. Other statutes affording victims rights also rely on this definition. <i>See, e.g.</i> , Ky. Rev. Stat. Ann. § 197.170 (right to notice of release of prisoner); Ky. Rev. Stat. Ann. § 532.055(2) (prosecutors discretion to introduce victim impact testimony during penalty phase of trial).	
<p><b>Victim Advocate Definitions.</b></p> <p>For the purposes of this section and KRS 421.575, “victim advocate” means an individual at least eighteen (18) years of age and of good moral character, who is employed by, or serves as a volunteer for, a public or private agency, organization, or official to counsel and assist crime victims as defined in KRS 421.500, and includes a victim advocate employed by a Commonwealth’s attorney pursuant to KRS 15.760 and a victim advocate employed by a county attorney pursuant to KRS 69.350.</p> <p> This definition explicitly applies to two statutes governing victim advocates, Ky. Rev. Stat. Ann. § 421.570 and Ky. Rev. Stat. Ann. § 421.575.</p>	Ky. Rev. Stat. Ann. § 421.570(1).
<p><b>Human Trafficking Caseworker-Victim Privilege Definitions.</b></p> <p>As used in this section:</p> <p>(a) “Confidential communication” means information transmitted between the victim and the caseworker in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the human trafficking counselor is consulted and includes all information regarding the facts and circumstances involving the trafficking;</p>	Ky. Rev. Stat. Ann. § 422.295(1).

<p>(b) “Holder of the privilege” means the victim when he or she has no guardian or conservator, or a guardian or conservator of the victim when the victim has a guardian or conservator; and</p> <p>(c) “Trafficking victim counselor” includes any of the following:</p> <ol style="list-style-type: none"> <li>1. A counselor, as that term is defined in Rule 506 of the Kentucky Rules of Evidence;</li> <li>2. A psychotherapist as that term is defined in Rule 507 of the Kentucky Rules of Evidence; and</li> <li>3. A person employed and supervised by one (1) of the persons specified in this paragraph to render services to human trafficking victims and who has received forty (40) hours of training in the history of human trafficking; civil and criminal law as it relates to human trafficking; societal attitudes towards human trafficking; peer counseling techniques; housing, public assistance, and other financial resources available to meet the financial needs of human trafficking victims; and referral services available to human trafficking victims.</li> </ol> <p> These definitions explicitly apply to the human trafficking counselor-victim privilege, Ky. Rev. Stat. Ann. § 422.295.</p>	
<p><b>Counselor-Client Privilege Definitions.</b></p> <p>As used in this rule:</p> <p>(1) A “counselor” includes:</p> <p>(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;</p> <p>(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;</p> <p>(C) A certified professional art therapist who is engaged to conduct art therapy under KRS</p>	<p>Ky. R. Evid. 506(a).</p>

<p>309.130 to 309.1399;</p> <p>(D) A licensed marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;</p> <p>(E) A licensed professional clinical counselor or a licensed professional counselor associate as defined in KRS 335.500;</p> <p>(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team under KRS 36.250 to 36.270;</p> <p>(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney under KRS 15.760 or a county attorney pursuant to KRS 69.350; and</p> <p>(H) A Kentucky licensed pastoral counselor as defined in KRS 335.605 who is engaged to conduct pastoral counseling under KRS 335.600 to 335.699.</p> <p>(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.</p> <p>(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.</p> <p> These definitions explicitly apply to the counselor-client privilege, Ky. R. Evid. 506.</p>	
<p><b>Psychotherapist-Patient Privilege Definitions.</b></p> <p>As used in this rule:</p> <p>(1) A "patient" is a person who, for the purpose of securing diagnosis or treatment of his or her mental condition, consults a psychotherapist.</p> <p>(2) A "psychotherapist" is:</p>	<p>Ky. R. Evid. 507(a).</p>

<p>(A) A person licensed by the state of Kentucky, or by the laws of another state, to practice medicine, or reasonably believed by the patient to be licensed to practice medicine, while engaged in the diagnosis or treatment of a mental condition;</p> <p>(B) A person licensed or certified by the state of Kentucky, or by the laws of another state, as a psychologist, or a person reasonably believed by the patient to be a licensed or certified psychologist;</p> <p>(C) A licensed clinical social worker, licensed by the Kentucky Board of Social Work; or</p> <p>(D) A person licensed as a registered nurse or advanced registered nurse practitioner by the board of nursing and who practices psychiatric or mental health nursing.</p> <p>(3) A communication is “confidential” if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are present during the communication at the direction of the psychotherapist, including members of the patient’s family.</p> <p>(4) “Authorized representative” means a person empowered by the patient to assert the privilege granted by this rule and, until given permission by the patient to make disclosure, any person whose communications are made privileged by this rule.</p> <p> These definitions explicitly apply to the psychotherapist-patient privilege, Ky. Rev. Stat. Ann. § 422.295.</p>	
<p><b>Address Protection Program Definitions.</b></p> <p>As used in KRS 14.300 to 14.318 unless the context otherwise requires:</p> <p>(1) “Address” means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;</p> <p>(2) “Applicant” means a person applying for certification in the address confidentiality</p>	<p>Ky. Rev. Stat. Ann. § 14.300.</p>



program under KRS 14.300 to 14.318;

(3) “Criminal offense against a victim who is a minor” has the same meaning as in KRS 17.500;

(4) “Domestic violence and abuse” has the same meaning as in KRS 403.720;

(5) “Program participant” means a person certified as a program participant under KRS 14.300 to 14.318;

(6) “Sex crime” means an offense or an attempt to commit an offense defined in:

(a) KRS Chapter 510;

(b) KRS 530.020;

(c) KRS 530.064(1)(a);

(d) KRS 531.310;

(e) KRS 531.320; or

(f) Any criminal attempt to commit an offense specified in this subsection, regardless of the penalty for the attempt;

(7) “Specified offense” means:

(a) Domestic violence and abuse;

(b) Stalking;

(c) A sex crime;

(d) A criminal offense against a victim who is a minor;

(e) A similar federal offense; or

(f) A similar offense from another state or territory; and



(8) “Stalking” means conduct prohibited under KRS 508.140 and 508.150.






These definitions explicitly apply to Kentucky’s address protection program, Ky. Rev. Stat. Ann. §§ 14.300 to 14.318.

SELECT CRIME VICTIMS' RIGHTS	Kentucky Statutes and Rules
<p><b>Kentucky Crime Victim Bill of Rights<sup>2</sup>; Application; Construction.</b></p> <p>(1) In order to establish the minimum conduct of criminal justice professionals with respect to crime victims and to communicate the intent of the General Assembly that victims of crime play an integral role in the criminal justice process, KRS 421.500 to 421.575 is hereby named the Kentucky Crime Victim Bill of Rights.</p> <p>(2) The rights established by KRS 421.500 to 421.575 shall apply in all felony and misdemeanor proceedings in a District or Circuit Court of the Commonwealth.</p> <p>(3) Nothing in KRS 421.500 to 421.575 shall provide grounds for the victim to challenge a charging decision or a conviction, to obtain a stay of trial, or to compel a new trial. Law enforcement agencies, county attorneys, and Commonwealth's attorneys and courts shall make every reasonable effort to ensure that victims of crime receive the benefits of the rights set out in KRS 421.500 to 421.575.</p>	<p>Ky. Rev. Stat. Ann. § 421.576.</p>
<p><b>Court's Authority to Appoint Special Advocate to Represent Victims Who are Minors or Legally Incapacitated; Special Advocate-Client Privilege.</b></p> <p>If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special</p>	<p>Ky. Rev. Stat. Ann. § 421.500(2).</p>

<sup>2</sup> There is pending legislation related to Kentucky's victims' rights act, Ky. Rev. Stat. Ann. §§ 421.500 to 421.575. As noted in a recent Legislative Research Commission Note, "2018 Ky. Acts ch. 19, sec. 8, provides that the repeal, reenactment, and amendment of this statute in that Act 'shall take effect only upon the ratification, in the general election of November 6, 2018, of a Constitutional amendment providing for the protection of crime victims' rights. If such an amendment is not ratified, this Act shall be void' On June 13, 2019, the Kentucky Supreme Court ruled that the language of the proposed amendment was not properly submitted to the voters at that election and, therefore, its ratification was void under Section 256 of the Kentucky Constitution. Consequently, the repeal, reenactment, and amendment of this statute in 2019 Ky. Acts ch. 19, sec. 2, was not given effect." Leg. Res. Comm. Note (June 13, 2019).

<p>advocate shall be privileged.</p> <p> Elsewhere in its code, Kentucky provides various courtroom accommodations for child-victims, including the mandatory appointment of a trained guardian ad litem or special advocate, if available, “for all child victims . . . to offer consistency and support to the child and to represent the child’s interest where needed.” Ky. Rev. Stat. Ann. § 26A.140(1)(a).</p>	
<p><b>Law Enforcement’s Obligations to Provide Victims with Certain Information.</b></p> <p>Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:</p> <ul style="list-style-type: none"> <li>(a) Availability of crime victim compensation where applicable;</li> <li>(b) Community based treatment programs;</li> <li>(c) The criminal justice process as it involves the participation of the victim or witness;</li> <li>(d) The arrest of the accused; and</li> <li>(e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.</li> </ul> <p> A promising practice is to have a policy and procedure defining “as soon as possible” to ensure that law enforcement provide victims required information promptly. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	<p>Ky. Rev. Stat. Ann. § 421.500(3).</p>

<p><b>Law Enforcement and Prosecutors' Obligation to Inform Victims on How to Be Protected.</b></p> <p>Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.</p> <p> This subsection contains “a reference to KRS 524.045, which was repealed in 2002 Ky. Acts ch. 251, sec. 6, effective July 15, 2002. The reference to KRS 524.045 should have been deleted from this statute as a conforming amendment in that Act, or even when this statute was amended in 2008. The Reviser of Statutes has removed the reference during the codification of 2008 Ky. Acts ch. 60, sec. 1, under the authority of KRS 7.136(1)(h) to correct manifest clerical or typographical errors.” Leg. Res. Comm. Note (July 15, 2008).</p> <p> Ky. Rev. Stat. Ann. § 15.247 describes the Attorney General’s program of protective services. Under Ky. Stat. Ann. § 15.247(5), these services include, physical protection of the person; physical security measures for the person’s residence, vehicle, workplace, or combination thereof; or short-term relocation.</p> <p> A promising practice is to provide victims with this information as soon as possible. Consideration should be given to providing written notice in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	<p>Ky. Rev. Stat. Ann. § 421.500(4).</p>
<p><b>Prosecutors' Obligations Regarding Victims' Right to Notice of Proceedings; Victims' Right to Safety.</b></p> <p>Attorneys for the Commonwealth shall make a reasonable effort to [e]nsure that:</p> <p>(a) All victims and witnesses who are required to attend criminal justice proceedings are</p>	<p>Ky. Rev. Stat. Ann. § 421.500(5).</p>

notified promptly of any scheduling changes that affect their appearances;

(b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, but not limited to, the defendant's release on bond and any special conditions of release; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and of a scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing; and

(c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;




(d) The victim receives information on available:



1. Protective, emergency, social, and medical services;
2. Crime victim compensation, where applicable;
3. Restitution, where applicable;
4. Assistance from a victim advocate; and
5. Community-based treatment programs; and


(e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.



Under Ky. Rev. Stat. Ann. § 15.247(5), the protective services available to victims include, physical protection of the person; physical security measures for the person's

<p>residence, vehicle, workplace, or combination thereof; or short-term relocation.</p> <p> A promising practice is to have a policy and procedure in place to define what constitutes “a reasonable effort” to ensure that victims receive the notifications and information set forth in this provision. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is to have a policy and procedure in place for how victims may express their “desire” to effectuate their rights to notice under this statute.</p> <p> A promising practice, when informing victims about restitution, is to notify victims that they should collect and neatly organize all documentation relating to their losses—including anticipated future expenses.</p>	
<p><b>Victims’ Right to Be Consulted by the Prosecutor on Certain Stages of the Proceedings.</b></p> <p>The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.</p>	Ky. Rev. Stat. Ann. § 421.500(6).
<p><b>Victims’ Right to Prompt Return of Property.</b></p> <p>In prosecution for offenses listed in this section for the purpose of defining “victim,” law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim’s property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.</p>	Ky. Rev. Stat. Ann. § 421.500(7).







 A promising practice is to have a policy and procedure in place that clearly defines what “promptly” means in the context of the victim’s right to return of property. Instructions should be ready and available to provide to victims, explaining how they may promptly obtain their property, and including the name of a person they may contact to check the status of the return.	
<p><b>Victims’ Employment Rights.</b></p> <p>A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.</p>  A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.	Ky. Rev. Stat. Ann. § 421.500(8).
<p><b>Attorney General’s Obligation to Provide Technical Assistance to Law Enforcement and Prosecutors.</b></p> <p>The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.</p>	Ky. Rev. Stat. Ann. § 421.500(9).
<p><b>Victims’ Right to Prompt Notice of Appellate Review.</b></p> <p>If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify</p>	Ky. Rev. Stat. Ann. § 421.500(10).

<p>victims promptly of the appeal, the status of the case, and the decision of the appellate court.</p> <p> A promising practice is to have a policy and procedure defining “a reasonable effort” to ensure that the attorney general provides victims with such notice “promptly.” Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>The Right of Child-Victims of Sexual Offenses to a Speedy Trial.</b></p> <p>(1) Where the victim is less than sixteen (16) years old and the crime is a sexual offense including violations of KRS 510.040 to 510.150, 530.020, 530.064(1)(a), 530.070, 531.310, 531.320, and 531.370, a speedy trial may be scheduled as provided in subsection (2) of this section.</p> <p>(2) The court, upon motion by the attorney for the Commonwealth for a speedy trial, shall set a hearing date on the motion within ten (10) days of the date of the motion. If the motion is granted, the trial shall be scheduled within ninety (90) days from the hearing date.</p> <p>(3) In ruling on any motion or other request for a delay or continuance of the proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.</p>	<p>Ky. Rev. Stat. Ann. § 421.510.</p>
<p><b>Victims' Right to Submit Written Impact Statement to be Included in Presentence Report.</b></p> <p>(1) The attorney for the Commonwealth shall notify the victim that, upon conviction of the defendant, the victim has the right to submit a written victim impact statement to the probation officer responsible for preparing the presentence investigation report for inclusion in the report or to the court should such a report be waived by the defendant.</p> <p>(2) The impact statement may contain, but need not be limited to, a description of the nature and extent of any physical, psychological or financial harm suffered by the victim, the</p>	<p>Ky. Rev. Stat. Ann. § 421.520.</p>




<p>victim's need for restitution and whether the victim has applied for or received compensation for financial loss, and the victim's recommendation for an appropriate sentence.</p> <p>(3) The victim impact statement shall be considered by the court prior to any decision on the sentencing or release, including shock probation, of the defendant.</p>	
<p><b>Victims' Right to Submit Victim Impact Statement to Parole Board.</b></p> <p>(1) If a defendant is sentenced to a period of incarceration and his release is subject to the authority of the parole board, the victim may submit a written impact statement to the parole board that it shall consider when making a decision on the release of the defendant.</p> <p>(2) The impact statement may contain, but need not be limited to, a description of the long-term consequences of the crime, including but not necessarily limited to, the physical, psychological and financial harm suffered by the victim, and whether the victim has applied for or received compensation for financial loss.</p>	Ky. Rev. Stat. Ann. § 421.530.
<p><b>Defendant May Not Use Failure to Provide Victims Their Rights as Grounds for Request to Set Aside Conviction or Sentence.</b></p> <p>The failure to provide a right, notice or privilege to a victim or witness under KRS 421.510 to 421.550 or 15.245 shall not be grounds for the defendant to seek to have the conviction or sentence set aside.</p>	Ky. Stat. Ann. § 421.540.
<p><b>Victims' Rights Laws Do Not Create a Cause of Action; Immunity of Jailors or Chief Administrator Acting in Good Faith; Indemnification; Defense by Attorney General.</b></p> <p>(1) Nothing in KRS 421.510 to 421.540, or KRS 15.245, 196.280, or 421.500 creates a cause of action for money damages against the state, a county, a municipality, or any of their agencies, public officials, or employees.</p>	Ky. Rev. Stat. Ann. § 421.550.


<p>(2) The jailer or chief administrator of a juvenile detention facility, regional jail, or county jail, or any of their respective designees who acts in good faith in making available the release information required by KRS 196.280, or in good faith fails or is unable to provide the release information required by KRS 196.280, shall be immune from any criminal liability.</p> <p>(3) The jailer or chief administrator of a juvenile detention facility, regional jail, or county jail, or any of their respective designees, who acts in good faith in making available the release information required by KRS 196.280, or in good faith fails or is unable to provide the release information required by KRS 196.280, and who is sued for any act or omission in relation to KRS 196.280, and who has a judgment rendered against him and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney's fees awarded pursuant thereto, shall be indemnified by the Commonwealth from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his actual financial loss. The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the person claiming indemnification and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.</p> <p>(4) The Attorney General shall defend the jailer, chief administrator, or designee upon request, in any suit related to the provision of information under KRS 196.280.</p>	
<p><b>Victim Advocates: Training Requirement; Prohibition Against Practicing Law.</b></p> <p>(2) Each victim advocate shall complete training which shall include information concerning the difference between advocacy and the practice of law, and the appropriate intervention with crime victims, including victims of domestic violence, child physical and sexual abuse, human trafficking, and rape.</p> <p>(3) A victim advocate shall not engage in the practice of law as defined in KRS 524.130.</p>	<p>Ky. Rev. Stat. Ann. § 421.570(2)–(3).</p>




<p> Ky. Rev. Stat. Ann. § 421.570(1) defines “victim advocate” for the purposes of this subsection. The text of this definition is contained above in the section “Select Definitions.”</p> <p> The counselor-client privilege protects confidential communications between victims and victim advocates, except where the victim advocate is employed by a Commonwealth’s attorney under Ky. Rev. Stat. Ann. § 15.760 or a county attorney pursuant to Ky. Rev. Stat. Ann. § 69.350. Ky. R. Evid. 506(1)(G).</p>	
<p><b>Role of Victim Advocate in Court Proceedings.</b></p> <p>In all court proceedings, a victim advocate, upon the request of the victim, shall be allowed to accompany the victim during the proceeding to provide moral and emotional support. The victim advocate shall be allowed to confer orally and in writing with the victim in a reasonable manner. However, the victim advocate shall not provide legal advice or legal counsel to the crime victim in violation of KRS 421.570 and 524.130.</p> <p> Ky. Rev. Stat. Ann. § 421.570(1) defines “victim advocate” for the purposes of this subsection. The text of this definition is contained above in the section “Select Definitions.”</p> <p> The counselor-client privilege protects confidential communications between victims and victim advocates, except where the victim advocate is employed by a Commonwealth’s attorney under Ky. Rev. Stat. Ann. § 15.760 or a county attorney pursuant to Ky. Rev. Stat. Ann. § 69.350. Ky. R. Evid. 506(1)(G).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> A promising practice is to provide victims with clear information regarding the different</p>	<p>Ky. Rev. Stat. Ann. § 421.575.</p>

<p>roles played by the prosecutor and the victim advocate in the criminal justice process, with emphasis on the fact that the victim advocate may not provide legal advice or counsel to the victim.</p>	
<p><b>Commonwealth Attorney's Obligation to Interview Victims When Considering Application for Pretrial Diversion; Victims' Right to be Present for Approval of Diversion Application.</b></p> <p>When considering an application for pretrial diversion, the attorney for the Commonwealth shall . . . [i]nterview the victim of the crime, if there is an identified victim, and, when the victim of the crime is deceased or the attorney for the Commonwealth deems it necessary, interview a member of the family of the victim of the crime. The attorney for the Commonwealth shall explain to the victim the diversion program, the proposed diversion conditions, and any other matters that the attorney for the Commonwealth deems to be appropriate. The results of the interview and recommendations of the victim may be presented to the court when it is considering the application for pretrial diversion. If the application for diversion is approved by the court, the approval shall be in open court and may be attended by the victim and the victim's family. The attorney for the Commonwealth shall attempt to notify them of this fact and the time, date, and place of the hearing.</p>	<p>Ky. Rev. Stat. Ann. § 533.252(2).</p>
<p><b>Witnesses and Victims' Right Pamphlet: Preparation; Distribution.</b></p> <p>(1) The Attorney General shall prepare a pamphlet of not more than two (2) pages explaining to victims and witnesses of crime:</p> <ul style="list-style-type: none"> <li>(a) How the criminal justice system functions from the point of the complaint through the trial;</li> <li>(b) The role of the attorney for the Commonwealth;</li> <li>(c) The role of the defense attorney and whether the victim or witness must talk to the defense attorney and under what conditions;</li> <li>(d) The process for applying for crime victim compensation money;</li> <li>(e) The duties of the attorney for the Commonwealth under KRS 421.500;</li> </ul>	<p>Ky. Rev. Stat. Ann. § 15.245.</p>

<p>(f) How the victim or witness can be notified of the release of a person from a juvenile detention facility, jail, or prison;</p> <p>(g) General information on how the victim or witness can protect himself from intimidation; and</p> <p>(h) Such other information as the Attorney General deems relevant.</p> <p>(2) The Attorney General shall provide the pamphlet to each Commonwealth's and county attorney in sufficient quantity to distribute to victims of crime and to witnesses for the Commonwealth.</p> <p>(3) Each Commonwealth's and county attorney shall distribute the pamphlet to crime victims and witnesses and may distribute the pamphlet to other interested persons. No charge shall be made for the pamphlet.</p>	
<p><b>Program for the Protection of Victims, Witnesses and Their Immediate Families.</b></p> <p>(1) The Attorney General shall develop and administer a program for the protection of crime victims and witnesses and their immediate families.</p> <p>(2) Within the limits of the administrative regulations, guidelines, and appropriations for this purpose, the program shall provide funding to the Department of Kentucky State Police or to a sheriff's office or city or county police department agreeing to provide protection to crime victims and witnesses and their families.</p> <p>(3) Any Commonwealth's attorney or county attorney may apply to the Attorney General for funding for protection of crime victims, witnesses, and their families.</p> <p>(4) No protective service shall be rendered to the same person for more than six (6) months.</p> <p>(5) Protective services funded by this program shall be limited to:</p> <p>(a) Physical protection of the person;</p> <p>(b) Physical security measures for the person's residence, vehicle, workplace, or</p>	<p>Ky. Rev. Stat. Ann. § 15.247.</p>

<p>combination thereof; or (c) Short-term relocation.</p> <p>(6) The Attorney General shall promulgate administrative regulations under KRS Chapter 13A for the operation of the program.</p> <p>(7) Nothing in this statute shall be construed to create a cause of action for money damages against the state, a county, a municipality, or any of their agencies, public officials, or employees.</p> <p>(8) No court shall order a law enforcement agency to protect crime victim witnesses or their immediate families.</p> <p>(9) No record that may lead to the identity of a person seeking or given protection under this section shall be an open record. This protection shall extend even to the question of whether such a record exists.</p>	
<p><b>Prosecutor's Discretion to Introduce Victim Impact Testimony During Penalty Phase of Trial.</b></p> <p>Upon return of a verdict of guilty or guilty but mentally ill against a defendant, the court shall conduct a sentencing hearing before the jury, if such case was tried before a jury. In the hearing the jury will determine the punishment to be imposed within the range provided elsewhere by law. The jury shall recommend whether the sentences shall be served concurrently or consecutively.</p> <p>(a) Evidence may be offered by the Commonwealth relevant to sentencing including: . . . 7. The impact of the crime upon the victim or victims, as defined in KRS 421.500, including a description of the nature and extent of any physical, psychological, or financial harm suffered by the victim or victims . . .</p> <p> Ky. Rev. Stat. Ann. § 421.500(1) defines the term "victim" for the purposes of this</p>	<p>Ky. Rev. Stat. Ann. § 532.055(2).</p>

<p>provision. The text of this definition is contained above in the section “Select Definitions.”</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction’s law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	
<p><b>Victims’ Right to Notice of an Offender’s Release or Escape from a Penitentiary, Facility for Youthful Offenders, Regional Jail or County Jail.</b></p> <p>(a) The Department of Corrections shall provide or contract with a private entity to provide to members of the public who have made a notification request, notification of the release of an incarcerated person from a penitentiary, as defined in KRS 197.010, facility for youthful offenders, regional jail, or county jail. The warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, of a penitentiary, facility for youthful offenders, regional jail, or county jail, shall make available to the Department of Corrections, or any private entity under contract with the Department of Corrections, the information necessary to implement this section in a timely manner and before the release of any incarcerated person from the penitentiary, facility for youthful offenders, regional jail, or county jail. The Department of Corrections or the private entity under contract with the Department of Corrections shall be responsible for retrieving the information and notifying the requester in accordance with administrative regulations promulgated by the Department of Corrections.</p> <p>(b) If an incarcerated person escapes from any penitentiary, facility for youthful offenders, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall immediately provide the information necessary to implement this section.</p>	<p>Ky. Rev. Stat. Ann. § 196.280(1).</p>

<p>(c) If, upon a hearing, a court releases an incarcerated person and the incarcerated person does not return to the penitentiary, facility for youthful offenders, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall provide the information necessary to implement this section as soon as practicable.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> Law enforcement is statutorily required to provide victims with information “as soon as possible” on “[h]ow to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.” Ky. Rev. Stat. Ann. § 421.500(3)(e); <i>see also id.</i> at § 421.500(5)(c) (prosecutors must “make a reasonable effort” to ensure that victims know how to register for this information). A promising practice is to ensure that victims receive this information in a clear, easily understood format. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is to have a policy and procedure in place to remind victims who wish to be notified of an offender’s release, escape or other change in status that any changes in the victims’ contact information should be reported immediately to the relevant agency.</p>	
<p><b>Victims’ Right to Notice of Release of Prisoner.</b></p> <p>(1) (a) The wardens of the state penitentiaries upon the release of any prisoner or inmate</p>	<p>Ky. Rev. Stat. Ann. § 197.170.</p>



from confinement shall immediately notify:

1. The Circuit Court, the Commonwealth's attorney of the district, and the sheriff of the county where the inmate was sentenced;
2. The Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county, and the chief of police of the city and county, to which the inmate is released; and
3. Any victim, as defined in KRS 421.500, who has requested that he or she be notified on release of a particular inmate who victimized him or her and who has forwarded a current address and telephone number to the Department of Corrections.

(b) The notice shall give the residence of the person released and the name of the person to whom he or she was released. The provisions of KRS Chapter 202A notwithstanding, the Department of Corrections may release to the public the information that a petition to involuntarily hospitalize a prisoner has been filed concerning any inmate who is scheduled to be released from custody.

(2) Notice under subsection (1) of this section shall be given by mail, fax, or electronic means at the discretion of the Department of Corrections in a manner to [e]nsure receipt.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it. Notices posted under this subsection shall remain posted for not less than seven (7) days.




Ky. Rev. Stat. Ann. § 421.500(1) defines the term "victim" for the purposes of this provision. The text of this definition is contained above in the section "Select Definitions."




A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.



Law enforcement is statutorily required to provide victims with information "as soon as possible" on "[h]ow to register to be notified when a person has been released from

<p>prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.” Ky. Rev. Stat. Ann. § 421.500(3)(e). A promising practice is to ensure that victims receive this information in a clear, easily understood format. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is to have a policy and procedure in place to remind victims who wish to be notified of an offender’s release, escape or other change in status that any changes in the victims’ contact information should be reported immediately to the relevant agency.</p>	
<p><b>Victims’ Right to Notice of Referral of Inmates or Parolees to Substance Abuse Pilot Program and Rights to Submit Written Impact Statement and to Testify.</b></p> <p>(5) (a) Upon receiving a referral from the department’s Division of Substance Abuse Programming pursuant to subsection (3) of this section or from the department’s hearing officers pursuant to subsection (4) of this section, the Parole Board shall notify the inmate’s or parolee’s victims, if any, and provide them an opportunity to submit a written victim impact statement and to testify. The Parole Board shall then evaluate the referred inmate or parolee to determine whether to place him or her in the reentry drug supervision pilot program.</p> <p>(b) When evaluating whether to place a referred inmate or parolee in the reentry drug supervision pilot program, the Parole Board shall consider the following:</p> <p>...</p> <p>5. Information regarding the victims, if any;</p> <p>...</p>	<p>Ky. Rev. Stat. Ann. § 439.653(5), (7).</p>


<p>(7) (a) 1. Notwithstanding KRS 218A.1412 or 439.340 or any other statute to the contrary, if the Parole Board decides to place an inmate in the reentry drug supervision pilot program, the inmate shall immediately be paroled into the pilot program. The only conditions of parole shall be to:</p> <ul style="list-style-type: none"> <li>a. Have no contact with victims, if applicable;</li> <li>b. Pay restitution, if applicable . . .</li> </ul> <p> A promising practice is to have a policy and procedure in place to remind victims who wish to be notified of an offender's release, escape or other change in status that any changes in the victims' contact information should be reported immediately to the relevant agency.</p>	
<p><b>Victims' Rights to Notice of Parole Hearings, to Attend Parole Hearing and to Submit Written Comments to the Parole Board; Parole Board's Obligation to Receive and Consider All Such Comments.</b></p> <p>(5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt by the Commonwealth's attorney, who shall forward the notice promptly to the</p>	<p>Ky. Rev. Stat. Ann. § 439.340(5)-(7), 10.</p>

victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.

...

<p>(10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his or her agents or employees to comply with any of the provisions of subsections (5), (6), and (8) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.</p> <p> A promising practice is to have a policy and procedure in place to remind victims who wish to be notified of an offender's release, escape or other change in status that any changes in the victims' contact information should be reported immediately to the relevant agency.</p>	
<p><b>Victims' Right to Notice of Discharge, Transfer or Escape of Involuntarily Committed Patient Charged with or Convicted of a Violent Crime.</b></p> <p>(1) When a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 is discharged or transferred from the facility, the administrator shall notify the law enforcement agency in the county to which the person is to be released, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.</p> <p>(2) If a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 escapes from the facility, the administrator shall notify the law enforcement agency in the county in which the facility is located, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.</p> <p>(3) The administrator of a psychiatric facility or forensic psychiatric facility, or the administrator's designee, who acts in good faith in making the notifications required in this section or is unable to provide the release information required, is immune from any civil liability.</p>	<p>Ky. Rev. Stat. Ann. § 202A.410.</p>

(4) The Department of Corrections shall notify, or contract with a private entity to notify, victims of crime, judges, and witnesses involved in the hearing that resulted in the involuntary commitment who have made a notification request of the discharge or escape of a patient from a psychiatric facility or forensic psychiatric facility.

(5) The Department of Corrections and the Cabinet for Health and Family Services shall each promulgate administrative regulations under KRS Chapter 13A to carry out the duties set forth in this statute.





Law enforcement is statutorily required to provide victims with information “as soon as possible” on “[h]ow to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.” Ky. Rev. Stat. Ann. § 421.500(3)(e); *see also id.* at § 421.500(5)(c) (prosecutors must “make a reasonable effort” to ensure that victims know how to register for this information). A promising practice is to ensure that victims receive this information in a clear, easily understood format. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.




A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.




A promising practice is to have a policy and procedure in place to remind victims who wish to be notified of an offender’s release, escape or other change in status that any changes in the victims’ contact information should be reported immediately to the relevant agency.

<p><b>Victims' Right to Notice of Application to Have Certain Felony Convictions Vacated and Records Expunged.</b></p> <p>Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any vehicle operator's license issued to that person.</p> <p> A promising practice is to have a policy and procedure in place to remind victims who wish to be notified of an offender's release, escape or other change in status that any changes in the victims' contact information should be reported immediately to the relevant agency.</p>	<p>Ky. Rev. Stat. Ann. § 431.073(3).</p>
<p><b>Victims' Right to Notice of Petition to Have Misdemeanor, Violation and Traffic Infraction Records of Convictions Expunged and Dismissed.</b></p> <p>Upon the filing of a petition, the court shall set a date for a hearing, no sooner than thirty (30) days after the filing of the petition, and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.</p> <p> A promising practice is to have a policy and procedure in place to remind victims who wish to be notified of an offender's release, escape or other change in status that any</p>	<p>Ky. Rev. Stat. Ann. § 431.078(3).</p>

<p>changes in the victims' contact information should be reported immediately to the relevant agency.</p>	
<p><b>Domestic Violence Victims' Right to Reasonable Effort to Provide Notice of Abuser's Purchase of or Attempt to Purchase a Firearm.</b></p> <p>(1) Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice and Public Safety Cabinet shall make a reasonable effort to provide notice to the petitioner who obtained the domestic violence order issued under KRS 403.740 that the respondent to the order has attempted to purchase a firearm. The Justice and Public Safety Cabinet may contract with a private entity in order to provide notification.</p> <p>(2) The notification shall be limited to a petitioner who has:</p> <ul style="list-style-type: none"> <li>(a) Received a domestic violence protective order issued or reissued under KRS 403.740 on or after July 15, 2002;</li> <li>(b) Received a domestic violence protective order that involves a respondent who is prohibited by 18 U.S.C. sec. 922(g)(8) from possessing a firearm; and</li> <li>(c) Provided the Justice and Public Safety Cabinet or the entity with a request for notification.</li> </ul> <p>(3) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities. Nothing in this subsection shall limit liability for negligence.</p> <p> The Justice and Public Safety Cabinet is statutorily required to make a "reasonable effort" to provide this information to victims who have obtained a domestic violence order under Ky. Stat. Ann. § 403.740 and where the respondent is prohibited from possessing a firearm. A promising practice is to have a policy and procedure defining what "reasonable effort" means, and to ensure that victims receive this information in a clear, easily understood format. Consideration should be given to providing written information in the</p>	<p>Ky. Rev. Stat. Ann. § 237.100.</p>



<p>primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Sexual Assault Victims’ Right to Emergency Care and Examination Services; Sexual Assault Victims’ Right to Determine Whether a Report or Other Notification Shall Be Made to Law Enforcement; Participation in Criminal Justice System Not a Prerequisite for Examination.</b></p> <p>(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital.</p> <p>(2) Every hospital of this state which offers emergency services shall provide that a physician, a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.</p> <p>(3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.</p>	<p>Ky. Rev. Stat. Ann. § 216B.400.</p>

(4) The physician, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol which shall be developed by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination shall include but not be limited to:

- (a) Basic treatment and sample gathering services; and
- (b) Laboratory tests, as appropriate.

(5) Each victim shall be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.

(6) Each victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.

(7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.

(8) (a) The examinations provided in accordance with this section shall be paid for by the Kentucky Claims Commission at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

(b) Upon receipt of a completed claim form supplied by the board and an itemized billing for a forensic sexual assault examination or related services that are within the scope of practice of the respective provider and were performed no more than twelve (12) months prior to submission of the form, the board shall reimburse the hospital or sexual assault examination facility, pharmacist, health department, physician, sexual assault nurse

examiner, or other qualified medical professional as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.

(c) Independent investigation by the Kentucky Claims Commission shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.

(9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim's insurance carrier, or the Commonwealth.


(10) (a) Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child or a vulnerable adult is required, as set forth in KRS 209.030 and 620.030. No victim shall be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.

(b) If the victim chooses to report to law enforcement, the hospital shall notify law enforcement within twenty-four (24) hours.

(c) 1. All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed, if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

2. Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.

3. All samples collected pursuant to this section shall be stored for at least one (1) year from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection.

<p>4. Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within one (1) year after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. The victim shall be informed of this process at the time of the examination. No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Confidentiality of Child Advocacy Center Records and Interviews.</b></p> <p>(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children’s advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:</p> <ol style="list-style-type: none"> <li>1. Staff employed by the cabinet, law enforcement officers, and Commonwealth’s and county attorneys who are directly involved in the investigation or prosecution of the case, including a cabinet investigation or assessment of child abuse, neglect, and dependency in accordance with this chapter;</li> <li>2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms;</li> <li>3. The court and those persons so authorized by a court order;</li> <li>4. The external child fatality and near fatality review panel established by KRS 620.055; and</li> <li>5. The parties to an administrative hearing conducted by the cabinet or its designee in accordance with KRS Chapter 13B in an appeal of a cabinet-substantiated finding of abuse or neglect. The children’s advocacy center may, in its sole discretion, provide testimony in lieu of files, reports, notes, photographs, records, electronic and other communications, and</li> </ol>	<p>Ky. Rev. Stat. Ann. § 620.050(6)-(13).</p>

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

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

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

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

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

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

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

(b) The defendant's or respondent's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced

into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

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

(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

(a) To law enforcement officials that have a legitimate interest in the case;

(b) To the agency designated by the cabinet to investigate or assess the report;

(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600

(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report; or

(e) The external child fatality and near fatality review panel established by KRS 620.055.

(12) (a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

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

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

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

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

(13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the

<p>confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.</p> <p>...</p>	
<p><b>Accommodations for Testimony of Child-Victims of Sexual Abuse.</b></p> <p>(1) This section applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to 510.155, 529.030 to 529.050, 529.070, 529.100, 529.110, 530.020, 530.060, 530.064(1)(a), 531.310, 531.320, 531.370, or any specified in KRS 439.3401 and all dependency proceedings pursuant to KRS Chapter 620, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies to the statements or testimony of that child or another child who is twelve (12) years of age or younger who witnesses one of the offenses included in this subsection.</p> <p>(2) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.</p>	<p>Ky. Rev. Stat. Ann. § 421.350.</p>

<p>(3) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:</p> <p>(a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;</p> <p>(b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;</p> <p>(c) Each voice on the recording is identified; and</p> <p>(d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.</p> <p>(4) If the court orders the testimony of a child to be taken under subsection (2) or (3) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken, but shall be subject to being recalled during the course of the trial to give additional testimony under the same circumstances as with any other recalled witness, provided that the additional testimony is given utilizing the provisions of subsection (2) or (3) of this section.</p> <p>(5) For the purpose of subsections (2) and (3) of this section, "compelling need" is defined as the substantial probability that the child would be unable to reasonably communicate because of serious emotional distress produced by the defendant's presence.</p>	
<p><b>Courtroom Accommodations for Child-Victims.</b></p> <p>(1) Courts shall implement measures to accommodate the special needs of children which are not unduly burdensome to the rights of the defendant, including, but not limited to:</p>	<p>Ky. Rev. Stat. Ann. § 26A.140.</p>



<p>(a) Trained guardians ad litem or special advocates, if available, shall be appointed for all child victims and shall serve in Circuit and District Courts to offer consistency and support to the child and to represent the child's interests where needed.</p> <p>(b) During trials involving child victims or child witnesses, the environment of the courtroom shall be modified to accommodate children through the use of small chairs, frequent breaks, and the use of age appropriate language.</p> <p>(c) Children expected to testify shall be prepared for the courtroom experience by the Commonwealth's or county attorney handling the case with the assistance of the guardian ad litem or special advocate.</p> <p>(d) In appropriate cases, procedures shall be used to shield children from visual contact with alleged perpetrator.</p> <p>(2) The Supreme Court is encouraged to issue rules for the conduct of criminal and civil trials involving child abuse in which a child victim or child witness may testify at the trial.</p>	
<p><b>Coordination of Child Sexual Abuse Investigations; Protection of and Counseling for Child-Victims of Sexual Abuse.</b></p> <p>(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.</p>	<p>Ky. Rev. Stat. Ann. § 431.600.</p>

(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.


<p><b>Protective Orders: Law Enforcement's Obligations to Victims of Dating Violence and Abuse, Sexual Assault or Stalking.</b></p> <p>(1) A court issuing an interpersonal protective order shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.</p> <p>(2) When a law enforcement officer has reason to suspect that a person has been the victim of dating violence and abuse, sexual assault, or stalking, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:</p> <ul style="list-style-type: none"> <li>(a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;</li> <li>(b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and</li> <li>(c) Advising the victim immediately of the rights available to them, including the provisions of this chapter.</li> </ul> <p>(3) Orders of protection shall be enforced in any county of the Commonwealth.</p> <p>(4) Officers acting in good faith under this chapter shall be immune from criminal and civil liability.</p>	<p>Ky. Rev. Stat. Ann. § 456.090.</p>
<p><b>Protective Orders: Law Enforcement's Obligations to Victims of Domestic Violence.</b></p> <p>(1) A court issuing an order of protection shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.</p> <p>(2) When a law enforcement officer has reason to suspect that a person has been the victim of domestic violence and abuse, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:</p>	<p>Ky. Rev. Stat. Ann. § 403.785.</p>

<p>(a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;</p> <p>(b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and</p> <p>(c) Advising the victim immediately of the rights available to them as provided in KRS 421.500, including the provisions of this chapter.</p> <p>(3) Orders of protection shall be enforced in any county of the Commonwealth.</p> <p>(4) Officers acting in good faith under this section shall be immune from criminal and civil liability.</p>	
<p><b>Victims' Right to Restitution.</b></p> <p>(1) Restitution to a named victim, if there is a named victim, shall be ordered in a manner consistent, insofar as possible, with the provisions of this section and KRS 439.563, 532.033, 533.020, and 533.030 in addition to any other part of the penalty for any offense under this chapter. The provisions of this section shall not be subject to suspension or nonimposition.</p> <p>(2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.</p> <p>(3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence.</p> <p>(4) If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole.</p> <p>(5) Restitution payments ordered under this section shall be paid by the defendant to the clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney of the county.</p>	<p>Ky. Rev. Stat. Ann. § 532.032.</p>




 A promising practice, when informing victims about restitution, is to notify victims that they should collect and neatly organize all documentation relating to their losses—including anticipated future expenses.	
<p><b>Rape Shield Law.</b></p> <p>(a) Evidence generally inadmissible. The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):</p> <ol style="list-style-type: none"> <li>(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.</li> <li>(2) Evidence offered to prove any alleged victim's sexual predisposition.</li> </ol> <p>(b) Exceptions:</p> <ol style="list-style-type: none"> <li>(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules: <ol style="list-style-type: none"> <li>(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury, or other physical evidence;</li> <li>(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and</li> <li>(C) any other evidence directly pertaining to the offense charged.</li> </ol> </li> <li>(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.</li> </ol> <p>(c) Procedure to determine admissibility.</p> <ol style="list-style-type: none"> <li>(1) A party intending to offer evidence under subdivision (b) must:</li> </ol>	<p>Ky. R. Evid. 412.</p>

<p>(A) file a written motion at least fourteen (14) days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and</p> <p>(B) serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.</p> <p>(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.</p>	
<p><b>Sexual Assault Victims' Rights Regarding HIV Testing.</b></p> <p>(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.</p> <p>(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.</p> <p>(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health and Family Services.</p>	<p>Ky. Rev. Stat. Ann. § 510.320.</p>

<p>(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.</p> <p>(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Health and Family Services to the victim, or the parent or guardian of a victim who is a minor, an individual with an intellectual disability, or mentally incapacitated, the defendant, the court issuing the order for testing, and to any other agency as directed pursuant to KRS Chapter 214.</p> <p>(c) The Cabinet for Health and Family Services shall immediately provide to the victim the results of any human immunodeficiency virus test conducted under this section.</p> <p>(d) In addition, the Cabinet for Health and Family Services shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.</p> <p>(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Health and Family Services shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health-care and support services.</p> <p>(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.</p> <p>(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.</p>	
<p><b>Human Trafficking Caseworker-Victim Privilege.</b></p> <p>(2) A human trafficking victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to a trafficking victim counselor</p>	<p>Ky. Rev. Stat. Ann. § 422.295(2)–(3).</p>

<p>for the purpose of receiving counseling, therapy, services, information, or treatment related to human trafficking.</p> <p>(3) A human trafficking caseworker shall inform a trafficking victim of any applicable limitations on confidentiality of communications between the victim and the caseworker. This information may be given orally.</p> <p> The terms used in this privilege are defined in Ky Rev. Stat. § 422.295(1). The text of these definitions is contained above in the section “Select Definitions.”</p>	
<p><b>Counselor-Client Privilege.</b></p> <p>(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client’s family.</p> <p>(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person’s employer) may claim the privilege in the absence of the client, but only on behalf of the client.</p> <p>(d) Exceptions. There is no privilege under this rule for any relevant communication:</p> <p>(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client’s death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.</p> <p>(2) If the judge finds:</p> <p>(A) That the substance of the communication is relevant to an essential issue in the case;</p> <p>(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and</p> <p>(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.</p>	<p>Ky. R. Evid. 506(b)–(c).</p>



 The terms used in this privilege are defined in Ky. R. Evid. 506(a). The text of these definitions is contained above in the section “Select Definitions.”	
<p><b>Psychotherapist-Patient Privilege.</b></p> <p>(b) General rule of privilege. A patient, or the patient’s authorized representative, has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, made for the purpose of diagnosis or treatment of the patient’s mental condition, between the patient, the patient’s psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the psychotherapist, including members of the patient’s family.</p> <p>(c) Exceptions. There is no privilege under this rule for any relevant communications under this rule:</p> <p>(1) In proceedings to hospitalize the patient for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;</p> <p>(2) If a judge finds that a patient, after having been informed that the communications would not be privileged, has made communications to a psychotherapist in the course of an examination ordered by the court, provided that such communications shall be admissible only on issues involving the patient’s mental condition; or</p> <p>(3) If the patient is asserting that patient’s mental condition as an element of a claim or defense, or, after the patient’s death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.</p> <p> The terms used in this privilege are defined in Ky. R. Evid. 507(a). The text of these definitions is contained above in the section “Select Definitions.”</p> <p> The psychotherapist-patient privilege is not “a ground for excluding evidence regarding the domestic violence and abuse or dating violence and abuse or the cause thereof in any judicial proceeding resulting from a report pursuant to [Ky. Rev. Stat. Ann., ch. 209A].”</p>	<p>Ky. R. Evid. 507(b)–(c).</p>

Ky. Rev. Stat. Ann. § 209A.060.	
<p><b>Exceptions to the Public Records Act.</b></p> <p>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:</p> <p>(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy; . . .</p> <p>(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. . . .</p>	Ky. Rev. Stat. Ann. § 61.878(1).
<p><b>Address Protection Program.</b></p> <p>(1) Upon the creation of the crime victim address protection program, an applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a</p>	Ky. Rev. Stat. Ann. § 14.304.

guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State by administrative regulation and if it contains:

(a) A sworn statement by the applicant that:

1. The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or

2. The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an order of protection as defined in KRS 403.720 and 456.010 by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;

(b) A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.

(c) The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense; and

(e) The signature of the applicant and of a representative of any office designated under KRS 14.310 as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the Office of the Secretary of State.

(3) Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.

(4) Applicants shall be certified for two (2) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.

(5) A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.

(6) The addresses of individuals applying for entrance into the crime victim address confidentiality program and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884.

(7) A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.



Further details about the operation of Kentucky's address protection program can be found elsewhere in its code. *See, e.g.,* Ky. Rev. Stat. Ann. § 14.306 (grounds for cancellation; withdrawal); Ky. Rev. Stat. Ann. § 14.308 (confidentiality of records); Ky. Rev. Stat. § 14.310 (list of agencies providing counsel and shelter to program participants); Ky. Rev. Stat. Ann. § 14.312 (voter registration and voting); Ky. Rev. Stat. Ann. § 14.314 (no effect on custody or visitation); Ky. Rev. Stat. Ann. § 14.316 (limitation of liability for negligent disclosure of actual address).

This draft publication was developed by the National Crime Victim Law Institute (NCVLI) under 2018-V3-GX-K049, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this draft publication are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.