



Changes to Kentucky's Law on Mandatory Reporting of Domestic Violence KRS Chapter 209A as revised by HB 309, 2017

Purpose

To identify victims of domestic and dating violence and abuse, to link victims to services and to provide protective or therapeutic services for those who choose to accept them

What is domestic violence and abuse?

Physical injury, serious physical injury, stalking, sexual abuse or assault between family members (spouses, ex-spouses, parents/step-parents, children/step-children, grandparents, grandchildren) or members of an unmarried couple (people who live or have lived together or have a child in common)

What is dating violence and abuse?

Physical injury, serious physical injury, stalking, sexual abuse or assault between people who are in or have been in a dating relationship (a relationship of a romantic or intimate nature)

What is the definition of "victim" for purposes of the revised KRS Chapter 209A?

An individual who is or has been abused by a spouse or former spouse or an intimate partner (people who live or have lived together, or have a child in common, or are or have been in a dating relationship)

Who has a duty under the new law?

- Professionals (defined as: physician, osteopathic physician, coroner, medical examiner, medical resident, medical intern, chiropractor, nurse, dentist, optometrist, emergency medical technician, paramedic, licensed mental health professional, therapist, cabinet employee, child-care personnel, teacher, school personnel, ordained minister or the denominational equivalent, victim advocate or any organization or agency employing any of these professionals)
- Law Enforcement Officers

What duty does a professional have?

- If a professional has reasonable cause to believe that a victim with whom he or she has had a professional interaction has experienced domestic or dating violence and abuse, the professional shall provide the victim with educational materials related to domestic or dating violence and abuse including information about how he or she may access regional domestic violence programs or rape crisis centers and information about how to access protective orders
- Upon the request of a victim, a professional shall report an act of domestic or dating violence and abuse to law enforcement, after first discussing the making of such a report with the victim
- A professional shall also report to law enforcement his or her belief that the death of a victim with whom he or she had a professional interaction is related to domestic or dating violence and abuse

Where can a professional access the educational material and information?

www.kcadv.org

Should a professional still report suspected abuse/neglect/dependency/exploitation of children and vulnerable adults (those with a disability who are unable to protect themselves from abuse)?

Yes! KRS Chapter 209A doesn't change the mandatory reporting of abuse of children and vulnerable adults. Such suspected abuse should be reported to the Cabinet for Health and Family Services.

Is there any requirement to report spouse abuse/neglect to the Cabinet for Health and Family Services?

No! The revised KRS Chapter 209A does away with the mandatory reporting requirement, and replaces it with a broader mandatory education and referral requirement.

What are the duties of Law Enforcement?

- Upon receipt of a report of domestic or dating violence and abuse, an officer shall use reasonable means to provide assistance to the victim, including:
- An officer shall use the JC3 form to document information and injuries
- The completed JC3 shall be forwarded to the Cabinet for Health and Family Services if it includes information ***on known or suspected child abuse or neglect or the abuse or neglect of an elderly or disabled adult***
- If the JC3 form includes information that only relates to a victim of domestic or dating violence the form shall not be forwarded to the Cabinet for Health and Family Services but shall be kept in the records of the law enforcement agency

What are the possible repercussions for 1) deliberately or 2) mistakenly failing to follow the new law?

- A professional knowingly or wantonly violating this law shall be guilty of a Class B misdemeanor
- Anyone acting upon reasonable cause in complying with this law shall have immunity from any civil or criminal liability

Can a professional report suspected domestic or dating violence and abuse to law enforcement without the permission of the victim?

No. The revised KRS Chapter 209A requires that the victim request that the report be made. There may also be other ethical and legal confidentiality requirements by which the professional may be bound. For example, for those who must comply with HIPPA, disclosures must be limited to those actually "required by law". If not required by law, the victim has the right to decide whether the report should be made.