

## **209.020 Definitions for chapter.**

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
- (4) "Adult" means a person eighteen (18) years of age or older who, because of mental or physical dysfunctioning, is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he or she obtains suitable care in or out of his or her home;
- (6) "Caretaker" means an individual or institution who has been entrusted with or who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily or by contract, employment, legal duty, or agreement;
- (7) "Deception" means but is not limited to:
  - (a) Creating or reinforcing a false impression, including a false impression as to law, value, intention, or other state of mind;
  - (b) Preventing another from acquiring information that would affect his or her judgment of a transaction; or
  - (c) Failing to correct a false impression that the deceiver previously created or reinforced, or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
- (8) "Abuse" means the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury;
- (9) "Exploitation" means obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means, with the intent to deprive the person of those resources;
- (10) "Investigation" shall include but is not limited to:
  - (a) A personal interview with the individual reported to be abused, neglected, or exploited. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

- (b) An assessment of individual and environmental risk and safety factors;
  - (c) Identification of the perpetrator, if possible; and
  - (d) Identification by the Office of Inspector General of instances of failure by an administrator or management personnel of a regulated or licensed facility to adopt or enforce appropriate policies and procedures, if that failure contributed to or caused an adult under the facility's care to be abused, neglected, or exploited;
- (11) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or herself or others;
- (12) "Emergency protective services" are protective services furnished an adult in an emergency;
- (13) "Protective placement" means the transfer of an adult from his or her present living arrangement to another;
- (14) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;
- (15) "Records" means the medical, mental, health, and financial records of the adult that are in the possession of any hospital, firm, corporation, or other facility, if necessary to complete the investigation mandated in this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained;
- (16) "Neglect" means a situation in which an adult is unable to perform or obtain for himself or herself the goods or services that are necessary to maintain his or her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult; and
- (17) "Authorized agency" means:
- (a) The Cabinet for Health and Family Services;
  - (b) A law enforcement agency or the Department of Kentucky State Police;
  - (c) The office of a Commonwealth's attorney or county attorney; or
  - (d) The appropriate division of the Office of the Attorney General.

**Effective:** June 26, 2007

**History:** Amended 2007 Ky. Acts ch. 85, sec. 242, effective June 26, 2007. -- Amended 2005 Ky. Acts ch. 99, sec. 294, effective June 20, 2005; and ch. 132, sec. 2, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 14, sec. 41, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 370, sec. 1, effective July 15, 1998; and ch. 426, sec. 239, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 56, sec. 1, effective July 15, 1986. -- Amended 1980 Ky. Acts ch. 372, sec. 2, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 370, sec. 2, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 157, sec. 3.

**Legislative Research Commission Note (6/20/2005).** 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

**Legislative Research Commission Note (6/20/2005).** Under 2005 Ky. Acts chs. 184, sec. 18, changes in the names of agencies and officers that are made in bills

confirming a reorganization of the executive branch are to be codified only to the extent those changes do not conflict with other 2005 amendments. Accordingly, an amendment to this section in Acts ch. 132 prevails over a name change made in Acts ch. 99.