

Department of  
**CRIMINAL JUSTICE TRAINING**

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KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET



**KENTUCKY GENERAL ASSEMBLY**  
NEW LEGISLATION  
**2021 EDITION**



ACCREDITED BY



**2021**

**KENTUCKY GENERAL ASSEMBLY**

EFFECTIVE DATE OF MOST NEW LEGISLATION IS

**JUNE 29, 2021**

*\*Unless noted as different in individual statutes*

*NOTE - CERTAIN BILLS ARE EMERGENCY LEGISLATION AND EFFECTIVE IMMEDIATELY UPON THE SIGNATURE OF THE GOVERNOR (SEE INDIVIDUAL STATUTES DENOTED IN RED). SEVERAL STATUTES HAVE STAGGERED ENACTMENT DATES AS WELL.*

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Kentucky Revised Statutes Headings in bold. New text in **bold**. Deleted text in ~~strikethrough~~.

**THIS SUMMARY DOES NOT INCLUDE STATUTES RELATED TO EXPUNGEMENT, RETIREMENT OR SPECIALIZED ENFORCEMENT (THOSE THAT RELATE ONLY TO A SINGLE AGENCY)**

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# **KENTUCKY STATE SENATE**

## **SENATE BILL 4**

## **SEARCH WARRANTS**

**SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:**

***No arrest warrant or search warrant shall be issued authorizing entry without notice unless:***

***(1) The court finds by clear and convincing evidence that:***

***(a) The crime alleged is a crime that would qualify a person, if convicted, as a violent offender under KRS 439.3401; the crime alleged is a crime designated in KRS 525.045, 527.200, 527.205, or 527.210; or the evidence sought may give rise to the charge of a crime that would qualify a person, if convicted, as a violent offender under KRS 439.3401 or may give rise to a charge of a crime designated in KRS 525.045, 527.200, 527.205, or 527.210; and***

***(b) As established by facts specific to the case, giving notice prior to entry will endanger the life or safety of any person, or result in the loss or destruction of evidence sought that may give rise to a charge of a crime that would qualify a person, if convicted, as a violent offender under KRS 439.3401 or may give rise to a charge of a crime designated in KRS 525.045, 527.200, 20 527.205, or 527.210;***

***(2) The law enforcement officer seeking the warrant has obtained the approval of his or her supervising officer, or has the approval of the highest ranking officer in his or her law enforcement agency;***

***(3) The law enforcement officer seeking the warrant has consulted with the Commonwealth's attorney or county attorney for the jurisdiction for which the warrant is sought, or with an assistant Commonwealth's attorney or assistant county attorney for the jurisdiction for which the warrant is sought;***

***(4) The law enforcement officer seeking the warrant discloses to the judge, as part of the application, any other attempt to obtain a warrant authorizing entry without notice for the same premises, or for the arrest of the same individual;***

***(5) The warrant authorizes that the entry without notice occur only between the hours of 6 a.m. and 10 p.m., except in exigent circumstances where the court makes the findings set forth in subsection (1) of this section and the court further finds by clear and convincing evidence that there are substantial and imminent risks to the health and safety of the persons executing the warrant, the occupants of the premises, or the public that justify the entry without notice occur during other hours designated by the court; and***

***(6) If the warrant is not issued electronically pursuant to KRS 455.170, the warrant includes the legibly printed name and signature of the judge.***

**SECTION 2. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:**

***A judge shall carefully review any application for a warrant pursuant to Section 1 of this Act as a neutral and detached magistrate. Failure to act as a neutral and detached magistrate may be referred to the Judicial Conduct Commission.***

**SECTION 3. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:**

***A warrant issued pursuant to Section 1 of this Act shall be executed:***

***(1) By law enforcement officers who:***

***(a) Are members of a special weapons and tactics team or special response team, or another established team or unit trained and tasked with resolving high-risk situations and incidents, who have received appropriate training in the execution of arrest and search warrants authorizing entry without notice. In counties having a population of less than ninety thousand (90,000), when, after reasonable inquiry by the law enforcement officer seeking the warrant, members of the special weapons and tactics team or special response team are not available to timely execute the warrant and the court finds by clear and convincing evidence that the risks to the health and safety of the persons executing the warrant, the occupants of the premises, or the public are greater if the warrant is not timely executed, the court may approve the execution of the warrant without***

**members of a special weapons and tactics team or special response team;**

**(b) Are equipped with body-worn cameras, or, in counties having a population of less than ninety thousand (90,000), equipped with other audio-visual or audio recording devices issued by the government, and shall record the entirety of the execution of the warrant with a recording device that meets the requirements of this paragraph; and**

**(c) Are equipped with clearly visible insignia on any protective equipment or clothing that clearly identifies the name of the agency that employs the members of the special weapons and tactics team or special response team;**

**(2) In the presence of a uniformed law enforcement officer; and**

**(3) With a certified or licensed paramedic or emergency medical technician in proximity and available to provide medical assistance, if needed.**

**Section 4. KRS 523.020 is amended to read as follows:**

#### **KRS 523.020**

(1) A person is guilty of perjury in the first degree when he **or she** makes a material false statement, which he or she does not believe:[~~7~~]

**(a)** In any official proceeding under an oath required or authorized by law; [~~or~~]

**(b)**~~[(2)]~~ [~~When he makes a material false statement which he does not believe~~] In a subscribed written instrument for which an oath is required or authorized by law, with the intent to mislead a public servant in the performance of his **or her** official functions when such person is subscribing a warrant accusing his **or her** spouse of an offense under KRS Chapter 510; **or**

**(c) In an application for a warrant under Section 1 of this Act.**

**(2)**~~[(3)]~~ Perjury in the first degree is a Class D felony.

**SECTION 5. A NEW SECTION OF KENTUCKY RULES OF EVIDENCE 401 TO 412 IS CREATED TO READ AS FOLLOWS:**



***(a) Except as provided in subdivision (b) of this rule, the following evidence is not admissible in any civil or criminal proceeding:***

***(1) Evidence gathered by use of an arrest warrant or search warrant authorizing entry without notice that did not comply with applicable statutes; or***

***(2) Evidence gathered by use of an arrest warrant or search warrant authorizing entry without notice that was obtained through perjury or material false statement.***

***(b) Evidence excluded in subdivision (a) of this rule is admissible if otherwise admissible under these rules, and:***

***(1) In a civil case, offered by the plaintiff in an action for damages arising from the warrant; or***

***(2) In a criminal proceeding for perjury or material false statement in the application for the warrant, offered against the defendant.***

**Action: Signed by Governor April 9, 2021 (Acts Ch. 202).**

## **SENATE BILL 11      CRIMINAL MISCHIEF**

***Section 1. KRS 512.010 is amended to read as follows:***

### **KRS 512.010**

The following definitions apply in this chapter unless the context otherwise requires:

***(1) "Lease or rental agreement" means all agreements, written or oral, embodying the terms and conditions concerning the use and occupancy of a dwelling unit or premises;***

***(2) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value;***

***(3)(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors;***

~~(4)(3)~~ "Property" includes cattle;=

**(5) "Residential rental property" means any residential premises or property contained therein leased or otherwise rented to a tenant solely for residential purposes under a lease or rental agreement to which the tenant is a party; and**

**(6) "Tenant" means a person entitled under a lease or rental agreement to occupy a residential rental property to the exclusion of others.**

**Section 2. KRS 512.020 is amended to read as follows:**

#### **KRS 512.020**

(1) A person is guilty of criminal mischief in the first degree when, having no right to do so or any reasonable ground to believe that he or she has such right, he or she intentionally or wantonly:

(a) Defaces, destroys, or damages any property causing pecuniary loss of **one thousand dollars (\$1,000)** or more;[ or]

(b) Tampers with the operations of a key infrastructure asset, as defined in KRS 511.100, in a manner that renders the operations harmful or dangerous; **or**

**(c) As a tenant, intentionally or wantonly defaces, destroys, or damages residential rental property causing pecuniary loss of one thousand dollars (\$1,000) or more.**

(2) Criminal mischief in the first degree is a Class D felony.

**Section 3. KRS 512.030 is amended to read as follows:**

#### **KRS 512.030**

(1) A person is guilty of criminal mischief in the second degree when, having no right to do so or any reasonable ground to believe that he or she has such right, he **or she**:

(a) Intentionally or wantonly defaces, destroys or damages any property causing pecuniary loss of **five hundred dollars (\$500)** or more but **less than one thousand dollars (\$1,000); or**

***(b) As a tenant, intentionally or wantonly defaces, destroys, or damages residential rental property causing pecuniary loss of five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000).***

(2) Criminal mischief in the second degree is a Class A misdemeanor.

***Section 4. KRS 512.040 is amended to read as follows:***

#### **KRS 512.040**

(1) A person is guilty of criminal mischief in the third degree when:

(a) Having no right to do so or any reasonable ground to believe that he ***or she*** has such right, he ***or she*** intentionally or wantonly defaces, destroys or damages any property ***causing pecuniary loss of less than five hundred dollars (\$500);***~~[or]~~

(b) He ***or she*** tampers with property so as knowingly to endanger the person or property of another; ***or***

***(c) He or she as a tenant, and having no right to do so or any reasonable grounds to believe that he or she has such right, intentionally or wantonly defaces, destroys, or damages residential rental property causing pecuniary loss of less than five hundred dollars (\$500).***

(2) Criminal mischief in the third degree is a Class B misdemeanor.

**Action: Vetoed by Governor on March 12, 2021; veto overridden on March 29, 2021; delivered to Secretary of State on March 29, 2021 (Acts Ch. 164).**

## **SENATE BILL 12      HUMAN TISSUE PROCUREMENT**

***Section 1. KRS 311.1939 is amended to read as follows:***

#### **KRS 311.1939**

(1) Except as otherwise provided in subsection ***(4)*** ~~*(2)*~~ of this section, a person ***shall not***, ~~that~~ for valuable consideration, knowingly ***purchase, purchases sell, transfer, or offer to purchase, sell, or transfer*** ~~or sells~~ a part for transplantation or therapy if removal of a part from an individual ***has occurred***, is intended to occur, ***or*** after the individual's death.

**(2) A for-profit entity shall not engage, directly or indirectly, in the procurement, transfer, or distribution of any human eye, cornea, eye tissue, corneal tissue, or portions of eyes.**

**(3) A person who knowingly violates any of the provisions in this section** shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years or be fined not more than fifty thousand dollars (\$50,000), or both.

~~(4)~~(2) A **non-profit** entity ~~person~~ may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

**Action: Signed by Governor March 19, 2021 (Acts Ch. 49).**

## **SENATE BILL 52      SEXUAL OFFENSES BY PEACE OFFICERS**

**Section 1. KRS 510.060 is amended to read as follows:**

### **KRS 510.060**

(1) A person is guilty of rape in the third degree when:

(a) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old;

(b) Being at least ten (10) years older than a person who is sixteen (16) or seventeen (17) years old at the time of sexual intercourse, he or she engages in sexual intercourse with the person;

(c) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;

(d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; ~~or~~

(e) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either

department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual intercourse; **or**

***(f) Being a peace officer, while serving in his or her official capacity, he or she subjects a person who the officer:***

***1. Arrested, held in custody, or investigated for commission of a traffic or criminal offense; or***

***2. Knew or should have known was under arrest, held in custody, or being investigated for commission of a traffic or criminal offense; to sexual intercourse.***

(2) Rape in the third degree is a Class D felony.

***Section 2. KRS 510.090 is amended to read as follows:***

#### **KRS 510.090**

(1) A person is guilty of sodomy in the third degree when:

(a) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than sixteen (16) years old;

(b) Being at least ten (10) years older than a person who is sixteen (16) or seventeen (17) years old at the time of deviate sexual intercourse, he or she engages in deviate sexual intercourse with the person;

(c) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;

(d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than eighteen (18) years old with whom he or she comes into contact as a result of that position; **or**

(e) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to deviate sexual intercourse; **or**

***(f) Being a peace officer, while serving in his or her official capacity, he or she subjects a person who the officer:***

***1. Arrested, held in custody, or investigated for commission of a traffic or criminal offense; or***

***2. Knew or should have known was under arrest, held in custody, or being investigated for commission of a traffic or criminal offense; to deviate sexual intercourse.***

(2) Sodomy in the third degree is a Class D felony.

***Section 3. KRS 510.120 is amended to read as follows:***

### **KRS 510.120**

(1) A person is guilty of sexual abuse in the second degree when:

(a) He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; **or**

(b) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who is at least eighteen (18) years old and who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual contact; **or**

***(c) Being a peace officer, while serving in his or her official capacity, he or she subjects a person who the officer:***

***1. Arrested, held in custody, or investigated for commission of a traffic or criminal offense; or***

***2. Knew or should have known was under arrest, held in custody, or being investigated for commission of a traffic or criminal offense; to sexual contact.***

(2) In any prosecution under subsection (1)(a) of this section, it is a defense that:

(a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and

(b) The other person was at least fourteen (14) years old; and

(c) The actor was less than five (5) years older than the other person.

(3) Sexual abuse in the second degree is a Class A misdemeanor.

**Action: Signed by Governor March 25, 2021 (Acts Ch. 135).**

## **SENATE BILL 64      SEXUAL OFFENSES**

***Section 1. KRS 510.010 is amended to read as follows:***

### **KRS 510.010**

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by any body part or a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by any body part or a foreign object in the course of the performance of generally recognized health-care practices;

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of

self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. "Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by any body part or a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by any body part



or a foreign object in the course of the performance of generally recognized health-care practices; and

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor;

**(10) "Registrant" has the same meaning as in KRS 17.500; and**

**(11) "Adult intermediary" means a person who is age eighteen (18) years or older, who communicates with another for the purpose of procuring or promoting the use of a minor in violation of Section 2 of this Act.**

**Section 2. KRS 510.155 is amended to read as follows:**

### **KRS 510.155**

(1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of:

**(a) Procuring or promoting the use of a minor, *including* a peace officer, or a person working in coordination with law enforcement, posing as a minor if the person believes that the peace officer or the person working in coordination with law enforcement is a minor or is wanton or reckless in that belief; or**

**(b) Procuring or promoting the use of a minor from an adult intermediary, including a peace officer, or a person working in coordination with law enforcement, posing as an adult intermediary for a minor if the person believes that the peace officer or the person working in coordination with law enforcement is an adult intermediary for a minor or is wanton or reckless in that belief;**

for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where that offense involves commercial sexual activity, or 530.064(1)(a), or KRS Chapter 531.

(2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.

***(3) Each day a person knowingly uses a communications system for the purpose of procuring or promoting the use of a minor shall be a separate violation of this section.***

***(4) ~~(3)~~ The solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person's intent to commit the offense, and the offense is complete at that point without regard to whether the person met or attempted to meet the minor.***

***(5) ~~(4)~~ This section shall apply to electronic communications originating within or received within the Commonwealth.***

***(6) ~~(5)~~ Except as provided in subsection (7) of this section, a violation of this section is punishable as a Class D felony.***

***(7) A violation of this section is punishable as a Class C felony if:***

***(a) The minor or perceived minor procured or promoted is under twelve (12) years old;***

***(b) The offender is a registrant; or***

***(c) A person enters into the Commonwealth from another jurisdiction for the purpose of procuring or promoting the use of a minor or perceived minor in violation of this section.***

**Action: Signed by Governor on March 23, 2021. (Acts Ch. 88)**

**SENATE BILL 80      PEACE OFFICER  
DECERTIFICATION**

***Section 1. KRS 15.391 is amended to read as follows:***

**KRS 15.391**

**(1) As used in this section:**

**(a) "Agency" means any law enforcement agency, or other unit of government listed in KRS 15.380, that employs a certified peace officer;**

**(b) "Final order" has the same meaning as in KRS 13B.010;**

**(c) "General employment policy" means a rule, regulation, policy, or procedure commonly applicable to the general workforce or civilian**

employees that is not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether the rule, regulation, policy, or procedure exists or appears in a manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;

***(d) "Investigating agency" means an agency that investigates the use of force by peace officers, including but not limited to the employing agency;***

***(e) ~~(d)~~ "Professional malfeasance" means engaging in an act in one's professional capacity as a peace officer that violates a federal, state, or local law or regulation, or any act that involves the following:***

***1. The unjustified use of excessive or deadly force, as determined by an investigating agency;***

***2. Any intentional action by a peace officer that interferes with or alters the fair administration of justice, including but not limited to tampering with evidence, giving of false testimony, or the intentional disclosure of confidential information in a manner that compromises the integrity of an official investigation;***

***3. Engaging in a sexual relationship with an individual the peace officer knows or should have known is a victim, witness, defendant, or informant in an ongoing criminal investigation in which the peace officer is directly involved;***

***(f) ~~(e)~~ "Professional nonfeasance" means a failure to perform one's professional duty as a peace officer through omission or inaction that violates a federal, state, or local law or regulation, or any failure to act that involves the following:***

***1. The failure to intervene when it is safe and practical to do so in any circumstance where it is clear and apparent to the peace officer that another peace officer is engaging in the use of unlawful and unjustified excessive or deadly force; or***

***2. The intentional failure to disclose exculpatory or impeachment evidence that the peace officer knew or should have known to be***

**materially favorable to an accused for the purpose of altering the fair administration of justice; and**

**(g)** ~~(f)~~ "Regulation" means:

1. A federal or state administrative regulation adopted by a federal or state executive branch; and
2. A local rule, regulation, policy, or procedure adopted by ordinance, order, or resolution, or other official action by an agency. However, "regulation" does not mean a general employment policy.

(2) (a) The certification of a peace officer shall be **deemed automatically** revoked by the council **by operation of the law** for one (1) or more of the following:

1. Certification that was the result of an administrative error;
2. Plea of guilty to, conviction of, or entering of an Alford plea to any **state or federal** felony, **or any criminal offense committed in another state that would constitute a felony if committed in this state**;
3. Prohibition by federal or state law from possessing a firearm; ~~or~~
4. Receipt of a dishonorable discharge or bad conduct discharge from any branch of the Armed Forces of the United States; **or**
- 5. Willful falsification of information to obtain or maintain certification.**

(b) **1.** A peace officer whose certification is revoked pursuant to paragraph (a) of this subsection may file an appeal **at any time** with the council. If an appeal is filed, the council shall conduct an administrative hearing pursuant to KRS Chapter 13B to consider the reinstatement of the peace officer's certification if the revocation was made in error or the condition requiring revocation was removed or remedied.

**2. The council may impose any reasonable condition upon the reinstatement of the certification it may deem warranted under the facts of the appeal.**

**3. Notwithstanding any other provision of law, the council may subpoena or request a court to subpoena records that are necessary to provide evidence that will permit the council to evaluate whether**

***the cause for revocation has been remedied or removed. Any confidential or medical information received by the council under this subparagraph shall retain its confidential character.***

***4. The reversal or any other type of invalidation of a conviction by an appellate court shall constitute the removal or remedy of a condition requiring revocation. However, an expungement of a felony offense shall not be considered a removal or remedy that constitutes grounds for the reinstatement of the peace officer's certification under this paragraph.***

***5. A final order issued by the council denying reinstatement of certification may be appealed pursuant to the provisions of KRS 13B.140.***

(3) (a) The certification of a peace officer may be revoked by the council for one (1) or more of the following:

~~1. Termination of the peace officer for willful falsification of information to obtain or maintain certified status;~~

~~2. Termination of the peace officer for failure to meet or maintain training requirements, unless the certification is in inactive status. As used in this subparagraph, "inactive status" has the same meaning as in KRS 15.386;~~

~~2. 3. Termination of the peace officer for professional malfeasance or professional nonfeasance by his or her agency;~~

***3. 4. Termination of the peace officer following the plea of guilty to, conviction of, or entering of an Alford plea to any misdemeanor offense, in this state or out of it, that involves:***

***a. Dishonesty;***

***b. Fraud;***

***c. Deceit;***

***d. Misrepresentation;***

***e. Physical violence;***

***f. Sexual abuse; or***

***g. Crimes against a minor or a family or household member;***

***4. Receipt of general discharge under other than honorable conditions from any branch of the Armed Forces of the United States that results in the termination of the peace officer from his or her agency; or***

**5.** Resignation or retirement of the peace officer while he or she is under criminal investigation or administrative investigation for professional malfeasance or professional nonfeasance that, in the judgment of the agency that employed the peace officer, would have likely resulted in the termination of that peace officer had ***the facts leading to the investigation*** it been substantiated prior to his or her resignation or retirement; or

~~5. Receipt of general discharge under other than honorable conditions from any branch of the Armed Forces of the United States that results in the termination of the peace officer from his or her agency.~~

(b) The council shall review any ~~allegations or reports of~~ ***events described in*** paragraph (a) ~~1. to 5.~~ of this subsection to determine whether the ***event*** ~~allegation or report~~ warrants the initiation of proceedings ***by the council*** to revoke a peace officer's certification. If the council determines to initiate proceedings to revoke a peace officer's certification ***under this subsection*** based on the ~~allegation or report~~, the administrative hearing shall be conducted pursuant to KRS Chapter 13B. ***A final order by the council revoking certification may be appealed pursuant to the provisions of KRS 13B.140.***

~~(4) A peace officer may appeal a final order issued by the council denying reinstatement of his or her certification pursuant to subsection (2) of this section or revoking his or her certification pursuant to subsection (3) of this section as provided in KRS 13B.140.~~

~~(5)~~ (a) An agency:

1. That has knowledge of a peace officer in its employment who meets any of the revocation conditions outlined in subsection (2) of this section shall report that condition to the council within fifteen (15) days of gaining knowledge;

2. That terminated a peace officer for any of the revocation conditions outlined in subsection (3)(a)1., 2., 3., or 4.~~5.~~ of this section shall report that condition to the council within fifteen (15) days of the termination; and

3. That would have likely terminated a peace officer for the revocation condition outlined in subsection (3)(a)~~5.4.~~ of this section shall report that condition to the council within fifteen (15) days of the peace officer's resignation or retirement. If an agency reports pursuant to this subparagraph, the agency shall notify the peace officer that a report has been made.

(b) If an agency fails to make a report required by this subsection, the council may suspend the agency from participation in the Kentucky Law Enforcement Foundation Program fund. However, the time that an agency may be suspended by the council under this paragraph shall not exceed five (5) years.

~~(5)(6)~~ The council may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

***Section 2. KRS 15.392 is amended to read as follows:***

### **KRS 15.392**

(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.

(2) If the person separated from service has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status. Placement of certification on inactive status shall not prevent the council from subsequently instituting an action to revoke an officer's certification in appropriate cases in accordance with KRS 15.391 ~~for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.~~

(3) If the person has been separated from service or has not successfully completed basic training at a school certified or recognized by the council and fails to meet the requirements of KRS 15.400(1), the certification shall lapse.

(4) If the person has been separated due to death, the certification shall be retired.

**SECTION 3. A NEW SECTION OF KRS 15.310 TO 15.510 IS CREATED TO READ AS FOLLOWS:**

**(1) As used in this section, "agency" means any law enforcement agency, or other unit of government listed in KRS 15.380, that employs a certified peace officer.**

**(2) Subject to subsection (5) of this section, any agency may make a conditional offer of employment to a candidate pending its receipt and evaluation of a response to its request for information from:**

**(a) The council regarding the certification status of any candidate, including if the council has:**

**1. Received any notification under subsection (4) of Section 1 of this Act related to the candidate;**

**2. Initiated hearing procedures under Section 1 of this Act against the candidate; or**

**3. Started investigating whether to initiate hearing procedures for the revocation of the certification of the candidate under Section 1 of this Act; or**

**(b) Any agency that previously employed the candidate for any information the agency is required to provide under subsection (3) of this section.**

**(3) Any agency that receives an inquiry under subsection (2) of this section from another agency regarding a candidate for a peace officer position who was formerly employed by the agency shall provide the following documentation to the hiring agency:**

**(a) A complete copy of the peace officer's personnel file;**

**(b) Any documentation related to the arrest or prosecution of the peace officer that the agency maintained;**

**(c) Any documentation related to a completed internal administrative investigation of the peace officer; and**



***(d) Any documentation related to an incomplete internal administrative investigation of the peace officer that was not completed because of the officer's resignation or retirement while the investigation was pending.***

***(4) The council and any agency that receives a request for information shall provide it to the requesting hiring agency no later than fourteen (14) days following the receipt of the request.***

***(5) The hiring agency that elects to make a conditional offer of employment subject to its receipt and evaluation of information pursuant to this section shall require the candidate to complete a waiver and release of liability authorizing the hiring agency to request the information from all prior agencies, which may include employing agencies outside of the Commonwealth.***

***(6) The council, any agency, and the employees and officers of the council or any agency shall be immune from any civil liability for disclosing information pursuant to the provisions of this section and from any civil liability for the consequences of such a disclosure unless the information disclosed was knowingly false or deliberately misleading, was rendered with malicious purpose, or was in violation of any civil right of the former employee.***

**SECTION 4. A NEW SECTION OF KRS 15.310 TO 15.510 IS CREATED TO READ AS FOLLOWS:**

***If requested by an out-of-state law enforcement agency, the council shall provide the following information regarding the certification status of any candidate for employment, including if the council has:***

***(1) Received any notification under subsection (4) of Section 1 of this Act related to the candidate;***

***(2) Initiated hearing procedures under Section 1 of this Act against the candidate; or***

***(3) Started investigating whether to initiate hearing procedures for the revocation of the certification of the candidate under Section 1 of this Act.***

**Section 5. KRS 15.440 is amended to read as follows:**

## **KRS 15.440**

(1) Each unit of government that meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(a) Employs one (1) or more police officers;

(b) Pays every police officer at least the minimum federal wage;

(c) Requires all police officers to have, at a minimum, a high school degree, or its equivalent as determined by the council, except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection;

(d) 1. Requires all police officers to successfully complete a basic training course of nine hundred twenty-eight (928) hours' duration within one (1) year of the date of employment at a school certified or recognized by the council, which may provide a different number of hours of instruction as established in this paragraph, except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection.

2. As the exclusive method by which the number of hours required for basic training courses shall be modified from that which is specifically established by this paragraph, the council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, explicitly set the exact number of hours for basic training at a number different from nine hundred twenty-eight (928) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis.

3. If the council sets an exact number of hours different from nine hundred twenty-eight (928) in an administrative regulation as provided by this paragraph, it shall not further change the number of hours required for basic training without promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.

4. Nothing in this paragraph shall be interpreted to prevent the council, pursuant to its authority under KRS 15.330, from approving training schools with a curriculum requiring attendance of a number of hours that exceeds nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation as provided by subparagraphs 2. and 3. of this paragraph. However, the training programs and schools for the basic training of law enforcement personnel conducted by the department pursuant to KRS 15A.070 shall not contain a curriculum that requires attendance of a number of hours for basic training that is different from nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation promulgated by the council pursuant to the provisions of KRS Chapter 13A as provided by subparagraphs 2. and 3. of this paragraph.

5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph to the contrary notwithstanding, the council may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, approve basic training credit for:

- a. Years of service credit as a law enforcement officer with previous service in another state; and
- b. Basic training completed in another state.

6. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph to the contrary notwithstanding, the council may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, approve basic training credit for:

- a. Completion of eight hundred forty-eight (848) hours of training at a school established pursuant to KRS 15A.070;
- b. A minimum of fifteen (15) years of experience as a certified law enforcement instructor at a school established pursuant to KRS 15A.070;
- c. Completion of an average of forty (40) hours of Kentucky Law Enforcement Council approved in-service training annually from January 1, 1997, through January 1, 2020;
- d. ~~Completion of all mandatory training obligations under KRS 15.334 from January 1, 1997, to January 1, 2020;~~

- e. Three (3) years of active, full-time service as a:
  - i. City, county, urban-county, charter county, consolidated local, or unified local government police officer;
  - ii. Sheriff's deputy, excluding special deputies appointed under KRS 70.045;
  - iii. Department of Kentucky State Police officer; or
  - iv. Kentucky Department of Fish and Wildlife Resources conservation officer exercising peace officer powers under KRS 150.090; and

**e.f.**—Completion of the:

- i. Twenty-four (24) hour legal update Penal Code course;
- ii. Sixteen (16) hour legal update constitutional procedure course; and
- iii. Forty (40) hour basic officer skills course within one (1) year prior to applying for certification;

(e) Requires all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of the officer's police department, of forty (40) hours' duration, at a school certified or recognized by the council which may include a four (4) hour course which meets the requirements of paragraph (j) of this subsection. This in-service training requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

(f) Complies with all provisions of law applicable to police officers or police departments, including transmission of data to the centralized criminal history record information system as required by KRS 17.150 and transmission of reports as required by KRS 15.391;

(g) Complies with all rules and regulations, appropriate to the size and location of the police department issued by the cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that has been approved by the cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include a purpose statement; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Health and Family Services, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records;

(i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards provided by, and has been approved by, the cabinet, and which includes:

1. A requirement that evidence collected as a result of an examination performed under KRS 216B.400 be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;

2. A requirement that evidence received from a collecting facility relating to an incident which occurred outside the jurisdiction of the police department be transmitted to a police department with jurisdiction within ten (10) days of its receipt by the police department;

3. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to the Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the police department;

4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and

5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples, and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a suspect is apprehended or the office of the Commonwealth's attorney consents to the notification, but shall

not automatically require the disclosure of the identity of any person to whom the evidence matched; and

(j) Requires all police officers to successfully complete by December 31, 2022, and every two (2) years thereafter, a training course certified by the council of not less than four (4) hours in emergency vehicle operation.

(2) A unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund only if the police department of the unit of government remains in compliance with the requirements of this section.

(3) Deputies employed by a sheriff's office shall be eligible to participate in the distribution of funds from the Law Enforcement Foundation Program fund regardless of participation by the sheriff.

(4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

**Section 6. KRS 15.382 is amended to read as follows:**

**KRS 15.382**

A person certified after December 1, 1998, under KRS 15.380 to 15.404 **or qualified under the requirements set forth in subsection (1)(d)6. of Section 5 of this Act** shall, at the time of becoming certified, meet the following minimum qualifications:

(1) Be a citizen of the United States;

(2) Be at least twenty-one (21) years of age;

(3) (a) Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; or

(b) Possess a High School Equivalency Diploma;

- (4) Possess a valid license to operate a motor vehicle;
- (5) Be fingerprinted for a criminal background check;
- (6) Not have been convicted of any felony;
- (7) Not be prohibited by federal or state law from possessing a firearm;
- (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
- (9) Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
- (10) Have passed a medical examination as defined by the council by administrative regulation and provided by a licensed physician, physician assistant, or advanced practice registered nurse to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.310 to 15.510;
- (11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.310 to 15.510;
- (12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.310 to 15.510;

(13) Have been interviewed by the employing agency;

(14) Not have had certification as a peace officer permanently revoked in another state;

(15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.310 to 15.510;

(16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.310 to 15.510; and

(17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.310 to 15.510.

***Section 7. KRS 15.386 is amended to read as follows:***

**KRS 15.386**

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those peace officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been



met, the officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate, unless that officer is actively enrolled and participating in a basic training course or, after having begun a basic training course, is on an approved extension of time due to injury or extenuating circumstances;

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed;

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer powers; or

2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she meets the requirements of KRS 15.400(1) **or (2)** or has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.391 and successfully completes in-service training as prescribed by the council, as follows:

1. If the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation, he or she shall complete:

a. The twenty-four (24) hour legal update Penal Code course;

b. The sixteen (16) hour legal update constitutional procedure course; and

c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; or

2. If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation, he or she shall complete:

a. The twenty-four (24) hour legal update Penal Code course;

b. The sixteen (16) hour legal update constitutional procedure course;

c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and

d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:

i. Basic officer skills;

ii. Orientation for new police chiefs; or

iii. Mandatory duties of the sheriff.

(c) A person returning from inactive to active certification after June 26, 2007, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:

1. Be a citizen of the United States;

2. Possess a valid license to operate a motor vehicle;

3. Be fingerprinted for a criminal background check;

4. Not have been convicted of any felony;

5. Not be prohibited by federal or state law from possessing a firearm;

6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;

8. Have been interviewed by the employing agency; and
9. Not have had certification as a peace officer permanently revoked in another state;

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency;

(5) "Revoked status" means that the officer has no enforcement powers and his or her certification has been revoked by the Kentucky Law Enforcement Council under KRS 15.391; and

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

**Section 8. KRS 15.388 is amended to read as follows:**

**KRS 15.388**

(1) Within five (5) working days of employment or appointment, the chief executive officer of the employing agency, or his designee, shall file a report with the council certifying that the newly employed officer is certified or meets or exceeds the precertification qualifications of KRS 15.382 for peace officers or KRS 15.3971 for court security officers.

(2) If the person is certified, the council shall continue certified status.

(3) If the person is on inactive status, the council shall upgrade to certified status unless the certification is revoked or denied as provided by KRS 15.380 to 15.404.

(4) If the person is not certified and not on inactive status, but has successfully completed an applicable basic training course **or received a basic training credit under subsection (1)(d)6. of Section 5 of this Act**

approved and recognized by the council, the council shall designate the person as being in certified status unless the certification is revoked or denied as provided by KRS 15.380 to 15.404.

(5) If the person is not certified and not on inactive status, and has not successfully completed an applicable basic training course approved and recognized by the council, the council shall designate the person as being in precertification status.

(6) A person who is in precertification status shall, upon successful completion of the required basic training, be certified unless he has committed an act that would result in revocation of his certificate in which case he shall be denied certification.

(7) A person who is denied certified status under this section shall have the same right of appeal as a person who has been revoked under KRS 15.380 to 15.404.

(8) If the certified peace officer has successfully completed the basic training required by KRS 15.404 and transfers from a peace officer or court security officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

(9) If the certified court security officer has successfully completed the basic training required by KRS 15.3975 and transfers from a court security officer position from a current employer to a court security officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

(10) A certified court security officer who has met the requirements of KRS 15.3971 shall not transfer from a court security officer position to a peace officer position unless the certified court security officer meets all the requirements of a certified peace officer under KRS 15.382 and 15.404(1). If the certified court security officer has met the minimum qualifications of KRS 15.382, successfully completed the basic training required for certified peace officers under KRS 15.404(1), and transfers from a court security officer position from a current employer to a peace officer position for

another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

**Section 9. KRS 15.392 is amended to read as follows:**

**KRS 15.392**

(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.

(2) If the person separated from service has successfully completed basic training at a school certified or recognized by the council **or has received a basic training credit under subsection (1)(d)6. of Section 5 of this Act**, the council shall place the certification on inactive status. Placement of certification on inactive status shall not prevent the council from subsequently instituting an action to revoke an officer's certification in appropriate cases in accordance with KRS 15.391 for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.

(3) If the person has been separated from service or has not successfully completed basic training at a school certified or recognized by the council and fails to meet the requirements of KRS 15.400(1) **or (2)**, the certification shall lapse.

(4) If the person has been separated due to death, the certification shall be retired.

**Section 10. KRS 15.400 is amended to read as follows:**

**KRS 15.400**

(1) The effective date of KRS 15.380 to 15.404 shall be December 1, 1998. All peace officers employed as of December 1, 1998, shall be deemed to have met all the requirements of KRS 15.380 to 15.404 and shall be granted certified status as long as they:

(a) Remain in continuous employment of the agency by which they were employed as of December 1, 1998, and are employed within one hundred

(100) days by another law enforcement agency subject to the provisions of KRS 15.380 to 15.404;

(b) Retired from employment with certified status on or after July 1, 2008, and are reemployed no later than one hundred (100) days from March 15, 2011, by a law enforcement agency subject to KRS 15.380 to 15.404; or

(c) Have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(1)(d) when seeking employment with another law enforcement agency.

(2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in KRS 15.380 to 15.404 **or comply with the requirements set forth in subsection (1)(d)6. of Section 5 of this Act.** Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.

(3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, Social Security number, background investigation, medical examination, psychological examination, and polygraph examination conducted for any person seeking certification pursuant to KRS 15.380 to 15.404 shall not be subject to disclosure.

**Section 11. KRS 15.404 is amended to read as follows:**

#### **KRS 15.404**

(1) (a) Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete a basic training course, as established by KRS 15.440, at a school certified or recognized by the Kentucky Law Enforcement Council **or receive a basic training credit approved by the Kentucky Law Enforcement Council under subsection (1)(d)6. of Section 5 of this Act.**

(b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing basic training within one (1) year, the commissioner of the department or his or her designee may grant

the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.

(c) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Further, the peace officer shall be prohibited from serving as a peace officer for a period of one (1) year from the date that his or her precertification lapses.

(2) (a) All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the officer's rank and responsibility and the size and location of his department.

(b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training. If the officer is unable to complete the in-service training due to injury or illness that prevents him or her from working as a peace officer, the one hundred eighty (180) day extension shall begin on the date that the officer returns to work.

(c) Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status.

(d) When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.

(e) The requirements of this subsection shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces.

(f) This waiver shall be retroactive for peace officers from the date of September 11, 2001.

(3) An officer who has lost his or her law enforcement powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and law enforcement powers upon successful completion of the training deficiency.

**Action: Signed by Governor on March 22, 2021. (Acts Ch. 73)**

## **SENATE BILL 236                      LICENSE PLATES**

***Section 1. KRS 186.005 is amended to read as follows:***

### **KRS 186.005**

(1) It is declared to be the policy of this Commonwealth that all ~~commercial~~ vehicles should be regulated, registered, and the laws pertaining thereto be administered by the Transportation Cabinet. Motor vehicles other than commercial vehicles should be registered, regulated, and controlled by the Transportation Cabinet and the Justice and Public Safety Cabinet.

(2) All motor vehicles registered under the provisions of KRS 186.050(1) shall be on an annual basis and evidenced by a license plate whose registration designation is a combination of ~~three~~ (3) letters of the alphabet and ~~three~~ (3) Arabic numerical digits. These registration plates shall be issued for use during a multiyear period and validated for continued use the following year, or years, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.

(3) ***Unless otherwise specified***, all motor vehicles ~~registered under the provisions of KRS 186.050(3)(a), 4(a), (5), (6), or (11)~~ shall have registration plates issued for use during a multiyear period and validated for continued use the following year, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.

(4) The Transportation Cabinet may promulgate regulations and prepare the proper insignia and forms, which forms shall include information required by the Transportation Cabinet.

***Section 2. KRS 186.240 is amended to read as follows:***

### **KRS 186.240**



(1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and:

a) **Provide** ~~Prepare and furnish to the clerk in each county~~ **access to** a sufficient supply of all forms provided for in KRS 186.005 to 186.260. ~~The forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county, the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;~~

(b) Keep a numerical record of all registration numbers issued in the state, ~~for which they may use the second copy of receipts forwarded by the clerk of each county,~~ and also keep a record of motor or vehicle identification numbers required by KRS 186.160; and

(c) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times, a sufficient supply of **standard, non-commercial** plates **and the supplies necessary to provide evidence of** ~~and other insignia evidencing registration for all classes of vehicles~~ required to be registered.

(d) ~~the cabinet shall~~ Prescribe a plate of practical form and size for police identification purposes that shall contain:

1. The registration **identifier** number;

**2. An indication that Kentucky is the issuing jurisdiction;**

**3. For standard plates for non-commercial vehicles, the county in which the plate is issued;** ~~The word "Kentucky;" and~~

**4.3. For** ~~The name of the county in which the plate is issued, or in lieu thereof the words "Official," "Transportation," "Executive," or "Farm." plates for commercial vehicles, shall contain~~ plates for commercial vehicles, shall contain the year the license expires and words or information the Department of Vehicle Regulation may prescribe by administrative regulation, pursuant to KRS Chapter 13A; **and** ~~Numerals indicating a year shall not be placed upon any license plate issued pursuant to KRS 186.060, relating to the licensing of vehicles owned exclusively by the state~~

~~and KRS 186.061, relating to the licensing of vehicles owned exclusively by a nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit.~~

**5. At the discretion of the cabinet,** ~~a state slogan may be placed upon the plate.~~

(2) License plates issued pursuant to **this chapter** ~~KRS 186.050(1)~~ shall conform to the provisions of subsection (1)(c) **and (d)** of this section. ~~except:~~

~~(a) The word "Kentucky" shall be centered above the county name in which the plate is issued;~~

~~(b) The words "Bluegrass State" shall be centered at the top of the plate above the registration number; and~~

~~(c) The name of the county in which the plate is issued shall be centered in the lower portion of the plate below the registration number and shall be printed in letters that are the same size as those used to print the word "Kentucky." Beginning January 1, 1993, The Transportation Cabinet shall provide for the issuance of reflectorized plates for all motor vehicles, and shall collect a fee, in addition to the fee set out in KRS Chapter 186 and KRS 281.631, of fifty cents (\$0.50). The fifty cents (\$0.50) fee to reflectorize license plates shall be used by the cabinet as provided in subsection (3) of this section.;~~

(3) The reflectorized license plate program fund is established in the state road fund and appropriated on a continual basis to the cabinet to administer the moneys as provided in this subsection. The fifty cents (\$0.50) fee collected by the cabinet to reflectorize license plates shall be deposited into the program fund and used to issue reflectorized license plates. If at the end of a fiscal year, money remains in the program fund, it shall be retained in the fund and shall not revert to the state road fund. The interest and income earned on money in the program fund shall also be retained in the program fund to carry out the provisions of this subsection. The Transportation Cabinet shall **issue** ~~begin issuing the new~~ reflectorized license plates ~~plate~~ under the provisions of this subsection on ~~January 1, 2003, and shall continue to issue a new reflectorized license plate on a~~

schedule to be determined at the discretion of the cabinet. ~~in the years thereafter;~~

(4) Except as directed under subsection (3) of this section, the Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn it over to the State Treasurer for the benefit of the state road fund.;

(5) The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates, and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation, and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071.;

(6) When applied for under **Section 3 or 4 of this Act**, ~~KRS 186.160~~, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

**Section 3. KRS 186.060 is amended to read as follows:**

#### **KRS 186.060**

(1) Applications for registration of motor vehicles leased or owned by a county, city, urban-county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state or by the state or federal government shall be accompanied by a statement from the head of the department of the governmental unit that leases or owns the motor vehicle, certifying that the motor vehicle is leased or owned and operated by the governmental unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority, the clerk shall issue a registration receipt and the official number plate described in **subsection (6) of Section 2 of this Act** ~~KRS 186.240(1)(c)~~, and report the registration to the head of the

department authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of three dollars (\$3) in each instance, to be paid by the department upon whose authorization such license was issued.

(2) After such registration of any vehicle leased or owned by a county, city, urban-county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government and after issuance of such number plate for such vehicle so leased or owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of the vehicle shall be necessary so long as the vehicle is leased or owned by the governmental unit except in the case of loss or destruction of the license plate. In the event of loss or destruction, the number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle leased or owned by a county, city, urban-county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government is transferred or sold to another governmental unit, a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not leased or owned by a county, city, urban-county, board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or the state or federal government, any license plate that has been issued for use on a motor vehicle leased or owned by the governmental unit.

(5) Notwithstanding the provisions of KRS 186.020 and 186.050, a governmental entity which leases a motor vehicle may have that vehicle equipped with an official plate under this section. Upon termination of the lease agreement, if ownership of the motor vehicle does not revert to an entity allowed to use an official plate under this section, the owner of the

motor vehicle shall surrender the official plates and apply for registration under the provisions of KRS 186.050.

**Section 4. KRS 186.061 is amended to read as follows:**

**KRS 186.061**

(1) Applications for registration of motor vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit shall be accompanied by a statement from the chief or assistant chief of the volunteer fire department or unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the volunteer fire department or unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority, the clerk shall issue a registration receipt and the official number plate described in **subsection (6) of Section 2 of this Act KRS 186.240(1)(c)**, and report the registration to the head of the cabinet authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of three dollars (\$3) in each instance, to be paid by the volunteer fire department or unit.

(2) After registration of any vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit and after issuance of a number plate for the vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of the vehicle shall be necessary so long as the vehicle is owned exclusively by the volunteer fire department or unit except in the case of loss or destruction of the license plate. In the event of loss or destruction, the number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit is transferred or sold to another nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit or another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by any nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, any license plate that has been issued for use on a motor vehicle owned by a volunteer fire department or unit.

**Action: Signed by Governor on March 19, 2021. (Acts Ch. 53)**

**SENATE BILL 267                      PERSONALLY IDENTIFYING  
INFORMATION**

**SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO  
READ AS FOLLOWS:**

***(1) For the purposes of this section:***

***(a) "Dissemination" means electronically publishing, posting, or otherwise disclosing information to a public Internet site or public forum;***

***(b) "Household member" means a person who regularly resides in the household or who within the six (6) months preceding the conduct of the offense regularly resided in the household;***

***(c) "Immediate family member" means a parent, grandparent, spouse, child, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, or grandchild; and***

***(d) "Personally identifying information" means information that identifies or reasonably can be used to identify an individual, including but not limited to:***

***1. Social Security number or other government-issued identifier;***

***2. Date of birth;***

***3. Home or physical address;***

***4. Electronic-mail address or telephone number;***

***5. Financial account number or credit or debit card number;***

***6. Biometric, health, or medical data, or insurance information; or***

***7. School or employment locations.***

***(2) A person is guilty of disseminating personally identifying information about another person when, with the intent to intimidate, abuse, threaten, harass, or frighten a person who resides in the Commonwealth, he or she:***

***(a) Intentionally disseminates the personally identifying information of the person or a person's immediate family member or household member; and***

***(b) The dissemination would cause a reasonable person to be in fear of physical injury to himself or herself, or to his or her immediate family member or household member. (3) This section shall apply to electronic communications originating within or accessible within the Commonwealth.***

***(4) Disseminating personally identifying information is a Class A misdemeanor, unless the dissemination results in:***

***(a) Physical injury to the victim or to a victim's immediate family member or household member, in which case it is a Class D felony;***

***(b) Serious physical injury to the victim or to a victim's immediate family member or household member, in which case it is a Class C felony; or***

***(c) Death of the victim or of a victim's immediate family member or household member, in which case it is a Class B felony.***

***(5) Nothing in this section shall be construed to impose liability on a broadband Internet access service provider, a telecommunications service provider, an interconnected VoIP provider, or a mobile service provider as defined in 47 U.S.C. sec. 153, a commercial mobile service provider as defined in 47 U.S.C. sec. 332(d), or a cable operator as defined in 47 U.S.C. sec. 522, when acting in its capacity as a provider of those services.***

**SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:**

***(1) Any person who violates Section 1 of this Act shall be personally liable for actual and punitive damages, court costs, and reasonable***

**attorney's fees in a civil cause of action brought against an alleged perpetrator:**

**(a) By a victim;**

**(b) By a victim's parent or legal guardian on behalf of a victim who is a minor; and**

**(c) By a victim's immediate family member or household member, if he or she is harmed as a result of the same violation against the victim.**

**(2) The action may be filed in the Circuit Court for the county where the alleged violation occurred or the county where the victim resides.**

**(3) An individual found liable under this section shall be jointly and severally liable with each other person found liable under this section for the damages arising from the same violation of this section.**

**(4) Nothing in this section shall be construed to impose liability on a broadband Internet access service provider, a telecommunications service provider, an interconnected VoIP provider, or a mobile service provider as defined in 47 U.S.C. sec. 153, a commercial mobile service provider as defined in 47 U.S.C. sec. 332(d), or a cable operator as defined in 47 U.S.C. sec. 522, when acting in its capacity as a provider of those services.**

**Action: Signed by Governor on April 8, 2021. (Acts Ch. 199).**



# KENTUCKY HOUSE OF REPRESENTATIVES

## HOUSE BILL 105

## MISSING PERSONS

*Section 1. KRS 39F.180 is amended to read as follows:*

### KRS 39F.180

(1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:

(a) The local emergency management director; and

(b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.

(2)(a) Any ***missing person report*** search for a missing minor, as that term is defined in KRS 2.015, shall be immediately reported to the Department of Kentucky State Police by the person or organization to whom the missing minor is reported.

(b) A ***missing person report*** search for an impaired person as defined in KRS 39F.010(3)(a) shall immediately be reported as a Golden Alert D to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search, ***in a manner to be established by county policy.***

(c) A ***missing person report*** search for an impaired person as defined in KRS 39F.010(3)(b) shall immediately be reported as a Golden Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the

duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.

(d) A **missing person report** search for a veteran at risk shall immediately be reported as a Green Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency management manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.

***(e) The duty officer of the Division of Emergency Management shall contact the Transportation Cabinet if the local search coordinator determines that at any time during a search the use of electronic highway signs will aid in the search and is in the best interest of the missing person.***

(f) The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.

(3) Any search and rescue mission which has lasted four (4) hours without the subject being located shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio. ***Any agency, including but not limited to local law enforcement, the Kentucky State Police, fire departments, rescue squads, and emergency management, that initiates a search for any missing person not considered a Golden or Green Alert shall make the notifications indicated in subsection (2) of this section within four (4) hours of initiation of the search. Any search by any agency shall be reported to the Division of Emergency Management by telephone or***

**radio within four (4) hours of initiation by the local search and rescue coordinator, the local emergency management director, or their designee.**

(4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:

(a) The search and rescue mission is discontinued; or

(b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.

(5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.

**(6) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to develop a written standard operating procedure for handling and reporting requests made by the duty officer of the Division of Emergency Management to initiate the use of electronic highway signs as part of a search for a missing, lost, or overdue person. This standard operating procedure shall be a public record.**

(7) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.

**(8)** ~~(7)~~ There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical

services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. ***Any agency searching for a lost or missing person shall utilize existing resources, including but not limited to electronic highway signs, the Amber Alert System, law enforcement communications systems, electronic media, local, regional, and statewide media providers, and the Integrated Public Alert and Warning System, if authorized and under conditions permitted by the federal government.*** No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

**Action: Signed by Governor on March 23, 2021. (Acts Ch. 86).**

## **HOUSE BILL 125                      MOTORCYCLE LICENSES**

***SECTION 1. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:***

***The Transportation Cabinet shall establish a restriction on motorcycle operator's licenses which limits the operator to the operation of a three (3) wheeled motorcycle only.***

***Section 2. KRS 186.480 is amended to read as follows:***

### **KRS 186.480**

(1) The Department of Kentucky State Police shall examine every applicant for an operator's license as identified in KRS 186.635, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:

(a) The applicant is granted written permission by the Transportation Cabinet to take the examination in another county, and the Department of Kentucky State Police agree to arrange for the examination in the other county; or

(b) The applicant is tested using a bioptic telescopic device.

(2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic, the applicant's knowledge of traffic laws, and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. ~~An applicant for a motorcycle operator's license shall be required to show his or her ability to operate a motorcycle, in addition to other requirements of this section.~~ The provisions of this subsection shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or

(b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.

***(3) In addition to the requirements of subsection (2) of this section, an applicant for a motorcycle operator's license shall be required to show his or her ability to operate a motorcycle. An applicant who successfully completes the skills portion of the test under this subsection on a:***

***(a) Three (3) wheeled motorcycle shall be issued a motorcycle operator's license restricted to the operation of three (3) wheeled motorcycles under Section 1 of this Act; or***

***(b) Two (2) wheeled motorcycle shall be issued a motorcycle operator's license without the restriction identified in Section 1 of this Act, and may operate both two (2) and three (3) wheeled motorcycles.***

**NOTE: REMAINING IS RENUMBERED AND RELATES TO  
MOTORCYCLE TRAINING.**

**Action: Signed by Governor on April 5, 2021 (Acts Ch. 188).**

# HOUSE BILL 126

# THEFT/FRAUD OFFENSES

*Section 1. KRS 194A.990 is amended to read as follows:*

## **KRS 194A.900**

(1) **(a)** Any person who violates the provisions of KRS 194A.505(1), (2), or (7) shall be guilty of a Class **B** A misdemeanor, unless:

1. The sum total of benefits received in excess of that to which the person was entitled at the time of the offense was committed is valued at **five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;** ~~or over one hundred dollars (\$100), in which case it is a Class D felony~~

**2. The sum total of benefits received in excess of that to which the person was entitled at the time the offense was committed is valued at or above one thousand dollars (\$1,000) in which case it is a Class D felony; or**

**3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.**

**(b) If any person commits two (2) or more separate violations of the provisions of KRS 194A.505(1), (2), or (7) within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

(2) Any person who violates KRS 194A.505(3) shall be guilty of a Class D felony.

(3) Any person who violates the provisions of KRS 194A.505(4) or (5) shall be guilty of a Class C felony.

(4) Any person who violates the provisions of KRS 194A.505(6) shall be guilty of a Class D felony, unless the purpose of the violation is to obtain

ten thousand dollars (\$10,000) or more, in which case it shall be a Class C felony.

(5) Any person who violates KRS 194A.505(1) to (6) shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

(6) Any provider who violates KRS 194A.505(1) to (6) shall, in addition to any other penalties provided by law, including the penalty set forth in subsection (5) of this section, forfeit and pay civil penalties of:

(a) Payment to the State Treasury's general revenue fund in an amount equal to three (3) times the amount of the benefits and payments to which the person was not entitled; and

(b) Payment to the State Treasury's general revenue fund of all reasonable expenses that the court determines have been necessarily incurred by the state in the enforcement of this section.

***Section 2. KRS 205.8463 is amended to read as follows:***

**KRS 205.8463**

(1) No person shall knowingly or wantonly devise a scheme or plan a scheme or artifice, or enter into an agreement, combination, or conspiracy to obtain or aid another in obtaining payments from any medical assistance program under this chapter by means of any fictitious, false, or fraudulent application, claim, report, or document submitted to the Cabinet for Health and Family Services, or intentionally engage in conduct which advances the scheme or artifice.

(2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be made or presented to an employee or officer of the Cabinet for Health and Family Services any false, fictitious, or fraudulent statement, representation, or entry in any application, claim, report, or document used in determining rights to any benefit or payment.

(3) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or

facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled-nursing facility, intermediate-care facility, home-health agency, or other provider of services to the Medical Assistance Program.

(4) No person shall, in any matter within the jurisdiction of the Cabinet for Health and Family Services under this chapter, knowingly falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

(5) **(a)** Any person who violates subsections (1) and (2) of this section shall be guilty of a Class **B** A misdemeanor unless:

1. The sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued **at five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;** ~~three hundred dollars (\$300) or more in which case it shall be a Class D felony~~

**2. The sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at or above one thousand dollars (\$1,000), in which case it is a Class D felony; or**

**3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.**

**(b) If any person commits two (2) or more separate violations of subsections (1) and (2) of this section within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

(6) Any person who violates the provisions of subsection (3) of this section shall be guilty of a Class C felony.



(7) Any person who violates the provisions of subsection (4) of this section shall be guilty of a Class D felony.

**Section 3. KRS 238.995 is amended to read as follows:**

**KRS 238.995**

(1) Any person who willfully conducts without the required license any activity which under this chapter requires a license shall be guilty of a Class A misdemeanor.

(2) Any person who makes any materially false or misleading statement in making application for licensure or in submitting reports required under this chapter, or any person who willfully fails to maintain records or make entries required under this chapter, or any person who willfully refuses to produce for inspection any books, documents, or records required under this chapter shall be guilty of a Class A misdemeanor.

(3) **(a)** Any person who engages in conduct designed to corrupt the outcome of any charitable gaming activity with purpose to defraud or knowing that he is facilitating a fraud shall be guilty of **a Class B misdemeanor unless:**

1. ~~a Class A misdemeanor if~~ The amount involved is **five hundred dollars (\$500) or more but** less than **one thousand** ~~three hundred~~ dollars (\$1,000), **in which case it is a Class A misdemeanor;** ~~(\$300) and~~

2. ~~a Class D felony~~ The amount involved is **one thousand** ~~three hundred~~ dollars **(\$1,000)** ~~(\$300)~~ or more, **in which case it is a Class D felony;** or

3. **The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.**

**(b) If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the**

**property in each offense may be aggregated for the purpose of determining the appropriate charge.**

(4) (a) Any person who knowingly diverts charitable gaming funds from legitimate charitable purpose or lawful expenses allowed under this chapter to his financial benefit or the financial benefit of another person shall be guilty of **a Class B misdemeanor unless:**

1. ~~a Class A misdemeanor if~~ The amount involved is **five hundred dollars (\$500) or more but** less than **one thousand** ~~three hundred~~ dollars **(\$1,000), in which case it is a Class A misdemeanor;** ~~(\$300) and~~

2. ~~a Class D felony if~~ The amount involved is **one thousand** ~~three hundred~~ dollars **(\$1,000) (~~\$300~~) or more, in which case it is a Class D felony; or**

3. **The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.**

**(b) If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

(5) Any person who commits a second or subsequent offense within a five (5) year period under subsection (1) or (2) of this section shall be guilty of a Class D felony.

(6) Nothing contained in this chapter shall prohibit prosecution of a violation under KRS Chapter 528 by the Attorney General, county attorneys, or Commonwealth's attorneys.

(7) No person shall make or cause a false entry to be made in the business records of a charitable organization; alter, erase, obliterate, delete, remove, or destroy a true entry in the business records of a charitable organization; omit to make a true entry in the business records of a charitable organization in violation of a duty to do so that he knows to be imposed

upon him by law or by the nature of his position; or prevent the making of a true entry or cause the omission thereof in the business records of a charitable organization.

(8) Violation of subsection (7) of this section or falsifying business records of a charitable organization is a Class A misdemeanor.

**Section 4. KRS 341.990 is amended to read as follows:**

**KRS 341.990**

(1) Except as otherwise provided in subsection (11) of this section, any employee of any state agency who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.

(2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.

(3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(5) **(a)** Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class **B A** misdemeanor unless:

**1. The value of the benefits procured or attempted to be procured is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;* ~~one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony~~**

**2. *The value of the benefits procured or attempted to be procured is one thousand dollars (\$1,000) or more, in which case it is a Class D felony; or***

**3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.**

**(b) If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

(6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class **B** A misdemeanor unless:

**1. The liability avoided or attempted to be avoided is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor; ~~one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony~~**

**2. The liability avoided or attempted to be avoided is one thousand dollars (\$1,000) or more, in which case it is a Class D felony; or**

**3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.**

**(b) If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

~~(c)~~(b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.

(7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the Office of Unemployment Insurance, Department of Workforce Investment.

(8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.

(9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether or not an employing unit, who knowingly advises or assists an employing unit in the violation or attempted violation of KRS 341.540 or any other provision of this chapter related to determining the assignment of a contribution rate shall be subject to a civil monetary penalty of not less than five thousand dollars (\$5,000).

(10) Proceeds from all penalties imposed under subsection (9) of this section and KRS 341.540 shall be deposited in the unemployment compensation administration account and shall be expended solely for the cost of administration of this chapter consistent with KRS 341.240.

(11) Any person who violates the confidentiality provision in KRS 341.190(4) shall be guilty of a Class A misdemeanor.

***Section 5. KRS 434.650 is amended to read as follows:***

**KRS 434.650**

(1) **(a)** A person who, with intent to defraud the issuer, a participating party, a person, or organization providing money, goods, services, or anything else of value, or any other person:

~~1.(a)~~ Uses for the purpose of obtaining money, goods, services, or anything else of value a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked; ~~or~~

~~2.(b)~~ Obtains money, goods, services, or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; ~~or~~

~~3.(c)~~ Uses a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or 516.030; or

~~4.(d)~~ Deposits into his account or any account, via an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his lawful or legal property; ~~or~~

is guilty *as provided in paragraph (b) of this subsection.*

***(b) The penalty for violating paragraph (a) of this subsection is of a Class B A misdemeanor unless:***

***1. if The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is **five hundred dollars (\$500) or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;** less than five hundred dollars (\$500),***

***2. The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is one thousand dollars (\$1,000) a Class D felony id such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), in which case it is a Class D felony;*** ~~or~~

**3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or**

**4. The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period a ~~Class C~~ felony if such value is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.**

(2) A person who receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.

(3) Knowledge of revocation shall be presumed to have been received by a cardholder four (4) days after it has been mailed to him at the address set forth on the credit or debit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

**Section 6. KRS 434.655 is amended to read as follows:**

#### **KRS 434.655**

(1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods, services, or anything else of value after said cardholder has reported to the issuer said credit or debit card lost, as stolen, or not received is deemed to have used said credit or debit card in order to defraud the issuer; and said cardholder shall be guilty of **a Class B misdemeanor unless:**

**(a)** The value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is less than five hundred dollars (\$500) **or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;** ~~or~~

**(b)** ~~The a Class D felony if such~~ value **of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is one thousand five hundred dollars (\$1,000)(\$500) or more but is less than ten thousand dollars (\$10,000), in which case it is a Class D felony;** ~~or~~

**(c)** ~~The person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered;~~ **or**

**(d)** ~~The a Class C felony if such~~ value **of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.**

(2) A cardholder who, after using a credit or debit card, fraudulently reports to the issuer that such usage or transaction was not made by said cardholder, or that said credit or debit card was lost, stolen, or not received at the time of such usage or transaction, in order to defraud the issuer, the cardholder, or any other person in connection with said usage, shall be guilty of **a Class B misdemeanor unless:**

**(a)** ~~a Class A misdemeanor if~~ The value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is less than five hundred dollars (\$500) **or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;** ~~or~~

**(b)** ~~The a Class D felony if such~~ value **of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is one thousand five hundred dollars (\$1,000) (\$500) or**



more but is less than ten thousand dollars (\$10,000), **in which case it is a Class D felony;** ~~or~~

**(c) The person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or**

**(d) The ~~a Class C felony if such~~ value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.**

**Section 7. KRS 434.690 is amended to read as follows:**

#### **KRS 434.690**

(1) A person who receives money, goods, services, or anything else of value obtained in violation of KRS 434.650, knowing or believing that it was so obtained is guilty of **a Class B misdemeanor unless:**

**(a) ~~A Class A misdemeanor, if~~ The value of all money, goods, services, and other things of value received in violation of this section over a six (6) month period is less than five hundred dollars (\$500) or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;**

**(b) ~~The a Class D felony if such~~ value of all money, goods, services, and other things of value received in violation of this section over a six (6) month period is ~~one thousand five hundred dollars (\$1,000) (\$500)~~ or more but is less than ten thousand dollars (\$10,000), in which case it is a Class D felony;** ~~or~~

**(c) The person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or**

***(d) The a Class C felony if such value of all money, goods, services, and other things of value received in violation of this section over a six (6) month period is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.***

(2) A person who possesses three (3) or more tickets for airline, railroad, steamship, or other transportation service, which tickets were obtained by the use of a stolen or forged credit or debit card is presumed to know that such tickets were so obtained.

***Section 8. KRS 514.030 is amended to read as follows:***

**KRS 514.030**

(1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class **B** A misdemeanor unless:

(a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony;

(b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense;

(c) The property is one (1) or more controlled substances valued collectively at less than ten thousand dollars (\$10,000), in which case it is a Class D felony;

**(d) The value of the property is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;**

**(e) The value of the property is *one thousand dollars (\$1,000)* five hundred dollars (~~\$500~~) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;**

**(f) The person has three (3) or more convictions under paragraph (d) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered;**

**(g)(~~e~~) The value of the property is ten thousand dollars (\$10,000) or more but less than one million dollars (\$1,000,000), in which case it is a Class C felony;**

**(h)(~~f~~) The value of the property is one million dollars (\$1,000,000) or more but less than ten million dollars (\$10,000,000), in which case it is a Class B felony; or**

**(i)(~~g~~) The value of the property is ten million dollars (\$10,000,000) or more, in which case it is a Class B felony.**

**(3) Any person convicted under subsection (2)(i) (~~g~~) of this section shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed, any statute to the contrary notwithstanding.**

**(4) If any person commits two (2) or more separate offenses of theft by unlawful taking or disposition within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

**Section 9. KRS 514.040 is amended to read as follows:**

**KRS 514.040**

(1) A person is guilty of theft by deception when the person obtains property or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The maker had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. Notice

of the refusal may include a citation to this section and a description of this section's criminal penalties and shall be deemed properly addressed when mailed to the address printed or written on the check or sight order or provided by the drawer or maker upon issuance of the check or sight order. The notice, if mailed, shall be deemed received by the addressee seven (7) days after it is placed in the United States mail. The notice may be sent by first-class mail if supported by an affidavit of service setting out the contents of the notice, the address to which the notice was mailed, that correct postage was applied, and the date the notice was placed in the United States mail. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any merchant's posted bad check handling fee not to exceed fifty dollars (\$50) and any fee imposed pursuant to subsection (5) of this section.

(5) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of fifty dollars (\$50), if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.

(6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(7) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(8) Theft by deception is a Class **B** A misdemeanor unless:

**(a)** The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is **five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;**

~~(b)~~**(a) The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is one thousand dollars (\$1,000) five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or**

**(c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of convictions were entered; or**

~~(d)~~**(b) The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.**

**(9) If any person commits two (2) or more separate offenses of theft by deception within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

**Section 10. KRS 514.050 is amended to read as follows:**

#### **KRS 514.050**

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid, or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid, or delivered by mistake is a Class **B** A misdemeanor unless:

**(a) The value of the property is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor; or**

~~(b)~~(a) ***The value of the property is one thousand dollars (\$1,000) five hundred (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or***

***(c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or***

~~(d)~~(b) ***The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.***

***(3) If any person commits two (2) or more separate offenses of theft of property lost, mislaid, or delivered by mistake within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.***

***Section 11. KRS 514.060 is amended to read as follows:***

#### **KRS 514.060**

(1) A person is guilty of theft of services when:

(a) The person intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation;

(b) The person intentionally obtains wireless communications services or access to services by any of the following means:

1. Unauthorized interception of any electronic serial number, mobile identification number, personal identification number, or like identifying number;

2. Unauthorized interception of any cellular service or personal communications service as terms may be defined in 47 C.F.R. parts 22 and 24 respectively;

3. Unauthorized interception of any similar telephone service; or

4. Use of deception, threat, or other means to avoid payment for the services which the person knows are available only for charge or compensation; or

(c) Having control over or unauthorized access to the use of the services of others to which the person is not entitled, the person intentionally diverts the services to the person's own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of the services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity, or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in a manner so as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of the utility

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through the meter or other device.

(4) Theft of services is a Class **B** A-misdemeanor unless:

(a) The value of the service is **five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;**

(b)(a) **The value of the service is one thousand dollars (\$1,000) five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;**



***(c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or***

***(d)(b) The value of the service is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.***

***(5) If any person commits two (2) or more separate offenses of theft of services within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.***

***Section 12. KRS 514.070 is amended to read as follows:***

**KRS 514.070**

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employee of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

1. He fails to account or pay upon lawful demand; or
2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class **B** A misdemeanor unless:

**(a) The value of the property is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;**

**(b)(a) The value of the property is one thousand dollars (\$1,000) five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or**

**(c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or**

**(d)(b) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.**

(5) No person shall be convicted of theft by failure to make required disposition of property received when he or she has also been convicted of a violation of KRS 522.050 arising out of the same incident.

**(6) If any person commits two (2) or more separate offenses of theft by failure to make a required disposition of property received within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

**Section 13. KRS 514.080 is amended to read as follows:**

#### **KRS 514.080**

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

- (a) Inflict bodily injury on anyone or commit any other criminal offense; or
- (b) Accuse anyone of a criminal offense; or
- (c) Expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute; or
- (d) Use wrongfully his position as a public officer or servant or employee by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in a manner affecting some person adversely; or
- (e) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
- (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c), or (d) that the property obtained by threat of accusation, exposure, lawsuit, or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit, or other official action relates, or as compensation for property or lawful services

(3) Theft by extortion is a Class **B** A-misdemeanor unless:

**(a) The value of the property obtained is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;***

**(b)(a) *The value of the property is one thousand dollars (\$1,000) Five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;***

**(c) *A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the***

**dates on which the offenses occurred for which the judgments of conviction were entered; or**

**(d)(b) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.**

**(4) If any person commits two (2) or more separate offenses of theft by extortion within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

**Section 14. KRS 514.090 is amended to read as follows:**

#### **KRS 514.090**

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty days (30) after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

(3) Theft of labor already rendered is a Class **B** A-misdemeanor unless:

**(a) The value of the labor rendered is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;***

**(b)(a) The value of the labor rendered is *one thousand dollars (\$1,000) five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;***

**(c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or**

**(d)(b) The value of the labor rendered is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.**

**(4) If any person commits two (2) or more separate offenses of theft of labor already rendered within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**

**Section 15. KRS 514.110 is amended to read as follows:**

#### **KRS 514.110**

(1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, or having reason to believe that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class **B** A-misdemeanor unless:

**(a) The value of the property is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;**

**(b) The value of the property is one thousand dollars (\$1,000) five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;**

***(c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered;***

***(d)(b) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony;***

***(e)(c) The property is a firearm, regardless of the value of the firearm, in which case it is a Class D felony; or***

***(f)(d) The property is anhydrous ammonia, regardless of the value of the ammonia, in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.***

***(4) If any person commits two (2) or more separate offenses of receiving stolen property within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.***

**Action: Signed by Governor on March 22, 2021 (Acts Ch. 66).**

## **HOUSE BILL 155**

## **ABANDONED INFANTS**

***Section 1. KRS 405.075 is amended to read as follows:***

### **KRS 405.075**

**(1) As used in this section:**

**(a) "Newborn infant" means an infant who is medically determined to be less than thirty (30) days old; and**

**(b) "*Newborn safety device*" means a device:**

***1. Designed to permit a parent to anonymously place a newborn infant in the device with the intent to leave the newborn and for an***

**emergency medical services provider to remove the newborn from the device and take custody of the newborn infant;**

**2. Installed with an adequate dual alarm system connected to the physical location where the device is physically installed. The dual alarm system shall be:**

**a. Tested at least one (1) time per month to ensure the alarm system is in working order; and**

**b. Visually checked at least two (2) times per day to ensure the alarm system is in working order;**

**3. Approved by and physically located inside a participating staffed police station, staffed fire station, or staffed hospital that:**

**a. Is licensed or otherwise legally operating in this state; and**

**b. Is staffed continuously on a twenty-four (24) hour basis every day by a licensed emergency medical services provider; and**

**4. Located in an area that is conspicuous and visible to police station, fire station, or hospital staff; and**

**(c)** "Participating place of worship" means a recognized place of religious worship that has voluntarily agreed to perform the duty granted in this section and display signage prominently on its premises regarding its participation in this section and its operating hours during which staff will be present.

**(2) A parent shall have the right to remain anonymous, shall not be pursued, and shall not be considered to have abandoned or endangered a newborn infant under KRS Chapters 508 and 530 if the parent who:**

**(a)** Places a newborn infant:

**1. With an emergency medical services provider;**

**2. ~~or~~ At a staffed police station, fire station, **or** hospital;**

**3. **At a**, ~~or~~, or participating place of worship; **or****

**4. Inside a newborn safety device that meets the requirements of subsection (1) of this section; and**

**(b)** Expresses no intent to return for the **newborn** infant shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered the newborn infant under KRS Chapters 508 and 530.

(3) (a) Any emergency medical services provider, police officer, or firefighter who accepts physical custody of a newborn infant, **or who physically retrieves a newborn infant from a newborn safety device that meets the requirements of subsection (1) of this section**, in accordance with this section shall immediately arrange for the infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.

(b) Any staff member at a participating place of worship who accepts physical custody of a newborn infant in accordance with this section shall immediately contact the 911 emergency telephone service as set forth in KRS 65.750 to 65.760, wireless enhanced 911 system as set forth in KRS 65.7621 to 65.7643, or emergency medical services as set forth in KRS Chapter 311A for transportation to the nearest hospital emergency room.

(4) By placing a newborn infant in the manner described in this section, the parent:

(a) Waives the right to notification required by subsequent court proceedings conducted under KRS Chapter 620 until such time as a claim of parental rights is made; and

(b) Waives legal standing to make a claim of action against any person who accepts physical custody of the newborn infant.

(5) A staffed police station, fire station, hospital, emergency medical facility, or participating place of worship may post a sign easily seen by the public stating that: "This facility is a safe and legal place to surrender a newborn infant who is less than 30 days old. A parent who places a newborn infant at this facility and expresses no intent to return for the infant shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered their newborn infant under KRS Chapters 508 and 530."



(6) Actions taken by an emergency medical services provider, police officer, firefighter, or staff member at a participating place of worship in conformity with the duty granted in this section shall be immune from criminal or civil liability. Nothing in this subsection shall limit liability for negligence.

(7) The provisions of subsection (2) of this section shall not apply when indicators of child physical abuse or child neglect are present.

(8) KRS 211.951, 216B.190, 405.075, 620.350, and 620.355 shall be known as "The Representative Thomas J. Burch Safe Infants Act."

**Action: Signed by Governor on March 25, 2021 (Acts Ch. 117).**

## **HOUSE BILL 229                      CRIMINAL DAMAGE TO PROPERTY**

***Section 1. KRS 512.010 is amended to read as follows:***

### **KRS 512.010**

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.

(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.

(3) "Property" includes ***livestock as defined in KRS 150.010 and poultry as defined in KRS 246.010*** ~~cattle~~.

**Action: Signed by Governor on March 19, 2021 (Acts Ch. 50).**

## **HOUSE BILL 254                      SEXUAL EXPLOITATION OF MINORS**

***Section 1. KRS 531.335 is amended to read as follows:***

### **KRS 531.335**

(1) A person is guilty of possession or viewing of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he or she:

(a) Knowingly has in his or her possession or control any matter which visually depicts an actual sexual performance by a minor person; or

(b) Intentionally views any matter which visually depicts an actual sexual performance by a minor person.

(2) The provisions of subsection (1)(b) of this section:

(a) Shall only apply to the deliberate, purposeful, and voluntary viewing of matter depicting sexual conduct by a minor person and not to the accidental or inadvertent viewing of such matter;

(b) Shall not apply to persons viewing the matter in the course of a law enforcement investigation or criminal or civil litigation involving the matter; and

(c) Shall not apply to viewing the matter by a minor or the minor's parents or guardians, or to school administrators investigating violations of subsection (1)(b) of this section.

(3) Possession or viewing of matter portraying a sexual performance by a minor is:

**(a) A Class D felony if the person knows that the minor portrayed is less than eighteen (18) years old at the time of the sexual performance; and**

**(b) A Class C felony if the person knows that the minor portrayed is less than twelve (12) years old at the time of the sexual performance.**

Section 2. KRS 531.340 is amended to read as follows:

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he or she:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he or she:

1. Exhibits for profit or gain; or

2. Distributes; or

3. Offers to distribute; or

4. Has in his or her possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his or her possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his or her possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is:

**(a) A Class D felony for the first offense, and a Class C felony for each subsequent offense, *if the person knows that the minor portrayed is less than eighteen (18) years old at the time of the sexual performance; and***

**(b) A Class C felony for the first offense, and a Class B felony for each subsequent offense, *if the person knows that the minor portrayed is less than twelve (12) years old at the time of the sexual performance.***

**Action: Signed by Governor on March 23, 2021 (Acts Ch. 87).**

**HOUSE BILL 273**

**OPEN RECORDS**

**EMERGENCY**

***Section 1. KRS 61.878 is amended to read as follows:***

**KRS 61.878**

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a

court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;

2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

a. In conjunction with an application for or the administration of a loan or grant;

b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;

c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

d. For the grant or review of a license to do business.

3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;

(e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;

(f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;

(h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is

completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(k) All public records or information the disclosure of which is prohibited by federal law or regulation;

(l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under KRS 131.190;

(m) 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:

a. Criticality lists resulting from consequence assessments;

b. Vulnerability assessments;

c. Antiterrorism protective measures and plans;

d. Counterterrorism measures and plans;

e. Security and response needs assessments;

f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology,

communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and

h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.

2. As used in this paragraph, "terrorist act" means a criminal act intended to:

a. Intimidate or coerce a public agency or all or part of the civilian population;

b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or

c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.

4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.

5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;

(n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation

regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law;

(o) Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:

1. A contract is awarded; or
2. The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited; ~~and~~

(p) Communications of a purely personal nature unrelated to any governmental function; **and**

***(q) Except as provided in KRS 61.168, photographs or videos that depict the death, killing, rape, or sexual assault of a person. However, such photographs or videos shall be made available by the public agency to the requesting party for viewing on the premises of the public agency, or a mutually agreed upon location, at the request of;***

***1. a. Any victim depicted in the photographs or videos, his or her immediate family, or legal representative;***

***b. Any involved insurance company or its representative; or***

***c. The legal representative of any involved party;***

***2. Any state agency or political subdivision investigating official misconduct; or***

***3. A legal representative for a person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident. The person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident or their immediate family shall not be permitted to have access to the photographs or videos.***



(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

***(6) When material is made available pursuant to a request under subsection (1)(q) of this section, the public agency shall not be required to make a copy of the recording except as provided in KRS 61.169, and the requesting parties shall not be limited in the number of times they may view the material.***

Section 2. This Act may be cited as the Bailey Holt-Preston Cope Victims Privacy Act.

Section 3. Whereas victims and victims' families are subjected to emotional distress, embarrassment, and invasion of privacy when videos or photographs depicting violence against them are played in public forums, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Action: Signed by Governor on March 23, 2021 (Acts Ch. 78).**

## **HOUSE BILL 277**

## **OPERATOR'S LICENSES/ MILITARY**

***Section 1. KRS 186.430 is amended to read as follows:***

### **KRS 186.430**

(1) Except as provided in subsection (2) **or (6)** of this section, a person over the age of sixteen (16) who is a United States citizen and who is not a resident of Kentucky may drive in Kentucky for a period of time not to exceed one (1) year from the date the person enters Kentucky if:

(a) The person possesses a valid license issued by the person's home state;

(b) The person has the license in his or her immediate possession at all times when operating a vehicle on the highways; and

(c) The person's home state accords similar privileges to licensed residents of Kentucky.

(2) A person who is a United States citizen but who is not a resident of Kentucky who is enrolled as a full-time or part-time student at a university, college, or technical college located in Kentucky may drive in Kentucky on a valid license issued by the person's state of domicile, and shall not be required to obtain a Kentucky operator's license under this chapter if the person has a student identification card from a university, college, or technical college located in Kentucky in his or her immediate possession at all times when driving in Kentucky.

(3) A person over the age of sixteen (16) who is not a United States citizen and who is legally visiting this country for less than one (1) year may drive in Kentucky on a valid domestic license issued by the person's country of domicile and shall not be required to obtain a Kentucky driver's license.

(4) A person over the age of sixteen (16) who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but is a resident of Kentucky, shall be issued a Kentucky operator's license if the person complies with the requirements of KRS 186.4121. The cabinet may at any time refuse or discontinue the exemptions authorized in this section for any grounds and may deny, cancel, suspend, or revoke an instruction permit or operator's license issued under this chapter.

(5) A person whose operator's license or privilege to operate a motor vehicle, motorcycle, or moped in this state has been denied, withdrawn, canceled, suspended, or revoked as provided in KRS 186.400 to 186.640 shall not operate a motor vehicle, motorcycle, or moped in this state under a license, permit, or registration certificate issued by any other jurisdiction during the period of denial, withdrawal, cancellation, suspension, or revocation.

***(6) The following persons may drive in Kentucky on a valid operator's license issued by the person's state or U.S. Territory of domicile and shall not be required to obtain a Kentucky operator's license under this chapter if the person is:***

***(a) A member of the Armed Forces of the United States stationed in Kentucky who maintains a home of record for military purposes outside of Kentucky;***

***(b) The member's spouse; or***

***(c) The member's child or stepchild who is sixteen (16) years of age or older and a dependent or under guardianship of the member.***

***Section 2. KRS 186.416 is amended to read as follows:***

#### **KRS 186.416**

(1) If a resident of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the resident, or the resident's spouse or dependents, may renew a Class D operator's license issued under this section by mail. If the resident, or his or her spouse or dependents, was issued an "under 21" operator's license, upon the date of the license holder's twenty-first birthday, the "under 21" operator's license may be

renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(2) A resident of the Commonwealth renewing an operator's license by mail under subsection (1) of this section may have a personal designee apply to the cabinet on behalf of the resident to renew the resident's operator's license. An operator's license being renewed by mail under subsection (1) of this section shall be issued a license bearing the applicant's historical photo if there is a photo on file. If there is no photo on file, the license shall be issued without a photograph and shall show in the space provided for the photograph the legend "valid without photo and signature."

(3) (a) 1. If a resident of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.

2. The spouse or dependent of a person identified in subparagraph 1. of this paragraph shall be afforded the same consideration identified in that subparagraph regarding the renewal of an expired operator's license.

(b) A person who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.

(c) A person who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.

(d) If a resident of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his or her twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(4) (a) Any person who served in the active Armed Forces of the United States, including the Coast Guard, and any member of the National Guard or Reserve Component who completed the member's term of service and was released, separated, discharged, or retired therefrom under either an honorable discharge or a general under honorable conditions discharge may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this chapter bear the word "veteran" on the face or the back of the license or personal identification card.

(b) The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present ~~to the cabinet with one~~ (1) ~~of the following~~ as proof of **eligibility, an original or copy of his or her** veteran status:

1. ~~Unexpired~~ ~~An original copy of his or her~~ Veteran Identification Card or Veteran Health Identification Card issued by the United States Department of Veterans Affairs; ~~or a~~
2. **DD-2**, DD-214, DD-256, DD-257, or NGB-22 form; or
- ~~32. Unexpired~~ ~~A current military or Geneva Conventions Identification Card~~ **issued by the United States Department of Defense** establishing current service or retirement status in the Armed Forces of the United States.

The cabinet shall not be liable for fraudulent or misread forms presented.

**Action: Signed by Governor on March 22, 2021. (Acts Ch. 65).**

## **HOUSE BILL 307                      DEFINITION OF MARIJUANA**

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

**Section 1. KRS 218A.010 is amended to read as follows:**

### **KRS 218A.010**

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
- (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances classified as Schedule III controlled substances pursuant to KRS 218A.020 but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of its salts, isomers, or salts of isomers;
- (5) "Certified community based palliative care program" means a palliative care program which has received certification from the Joint Commission;
- (6) "Child" means any person under the age of majority as specified in KRS 2.015;
- (7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (8) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (9) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
  2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
  3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the

central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;
2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;

(10) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(11) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(12) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;

(13) "Distribute" means to deliver other than by administering or dispensing a controlled substance;

(14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;

(15) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

- (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
- (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
- (d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories;

(16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts, isomers, or salts of isomers;

(17) "Fentanyl derivative" means a substance containing any quantity of any chemical compound, except compounds specifically scheduled as controlled substances by statute or by administrative regulation pursuant to this chapter, which is structurally derived from 1-ethyl-4-(N-phenylamido) piperadine:

(a) By substitution:

1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or ethyloxotetrazole ring system; and
2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl, or furanyl group; and

(b) Which may be further modified in one (1) or more of the following ways:

1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy, haloalkyl, hydroxyl, or halide substituents;
2. By substitution on the piperadine ring to any extent with alkyl, allyl, alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-positions;
3. By substitution on the piperadine ring to any extent with a phenyl, alkoxy, or carboxylate ester substituent at the 4- position; or
4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or hydroxy substituents;

(18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the



patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;

(19) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:

- (a) Poses an explosion hazard;
- (b) Poses a fire hazard; or
- (c) Is poisonous or injurious if handled, swallowed, or inhaled;

(20) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;

(21) "Hydrocodone combination product" means a drug with:

- (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
- (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(22) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;

(23) "Industrial hemp" has the same meaning as in KRS 260.850;

(24) "Industrial hemp products" has the same meaning as in KRS 260.850;

(25) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;

(26) "Isomer" means the optical isomer, except the Cabinet for Health and Family Services may include the optical, positional, or geometric isomer to classify any substance pursuant to KRS 218A.020;

(27) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;

(b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;

(28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:

(a) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp;

(b) Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;

(c) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;

(d) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;

(e) A cannabidiol product derived from industrial hemp, as defined in KRS 260.850; or

***(f) For the purpose of conducting scientific research, a cannabinoid product derived from industrial hemp, as defined in KRS 260.850; or***

(g) A ***cannabinoid*** ~~cannabidiol~~ product approved as a prescription medication by the United States Food and Drug Administration;

(29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;

(30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;

(31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;

(32) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;

(33) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or

independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;

(34) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.020, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

(35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;

(36) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(37) "Physical injury" has the same meaning it has in KRS 500.080;

(38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(39) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, physician assistant as authorized under KRS 311.858, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;

(42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(43) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;

(44) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and

compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;

(45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(46) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;

(47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;

(48) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;

(49) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;

(50) "Serious physical injury" has the same meaning it has in KRS 500.080;

(51) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug

Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

(a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;

(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadolone (WIN 48,098), and RCS-4;

(d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent.

Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);

(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;

(f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

(g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;

(h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-



piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

(j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;

(52) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

(a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);

(b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and alpha-Pyrrolidinopropiophenone (alpha-PPP); or

(d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;

(53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

(54) "Telehealth" has the same meaning it has in KRS 311.550;

(55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant *Cannabis*, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

(56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;

(57) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and

(58) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

**Action: Signed by Governor on March 25, 2021. (Acts Ch. 123).**

## **HOUSE BILL 310**

## **INTERPERSONAL PROTECTIVE ORDERS**

### **EMERGENCY**

***Section 1. KRS 439.340 is amended to read as follows:***

#### **KRS 439.340**

(1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his or her admission to an adult state penal or correctional institution or county jail if he or she is a sentenced felon, and at such intervals thereafter as it may

determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include the results of his or her most recent risk and needs assessment, his or her criminal record, his or her conduct, employment, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his or her offense, the results of his or her most recent risk and needs assessment, and his or her previous social history to the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner, including the results of his or her most recent risk and needs assessment, and shall have him or her appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class C felonies not included within the definition of "violent offender" in KRS 439.3401 and Class D felonies ***not included within the definition of "sex crime" in KRS 17.500***. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his or her proper employment or for his or her maintenance and care, and when the board believes he or she is able and willing to fulfill the obligations of a law abiding citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when a prisoner is otherwise eligible for parole and the board has recommended parole for that prisoner for the reasons set forth in this subsection, the board may grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall be released to the detainer from that jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the prisoner, and the board in all cases expressly reserves the right to return the prisoner to confinement in a correctional institution of the Commonwealth if the prisoner violates the terms of his or her parole.

(3) (a) A nonviolent offender convicted of a Class D felony with an aggregate sentence of one (1) to five (5) years who is confined to a state penal institution or county jail shall have his or her case reviewed by the Parole Board after serving fifteen percent (15%) or two (2) months of the original sentence, whichever is longer.

(b) Except as provided in this section, the board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings and all other matters that come before it, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria and risk and needs assessment information; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that all sentenced felons who have longer than ninety (90) days to serve in state penal institutions, halfway houses, reentry centers, and county jails are considered for parole not less than sixty (60) days prior to their parole eligibility date, and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.

(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 **or a Class D felony included within the definition of "sex crime" in KRS 17.500** 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 **or a Class D felony included within the definition of "sex crime" in KRS 17.500** 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 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. ***For prisoners incarcerated prior to the effective date of this Act for a Class D felony included within the definition of "sex crime" in KRS 17.500, notice to the victims or their next of kin shall be in a manner that ensures receipt by the Commonwealth's attorney, who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after the effective date of this Act for a Class D felony included within the definition of "sex crime" in KRS 17.500, 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 ***not included within the definition of "sex crime" in KRS 17.500*** may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.

(8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. The time, date, and location of closed hearings shall not be disclosed to the public.

(9) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.

(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.

(11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he or she has successfully completed the Sexual Offender Treatment Program.

(12) Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his or her parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.

(13) When the board grants parole contingent upon completion of a program, the commissioner, or his or her designee, shall determine the most appropriate placement in a program operated by the department or a residential or nonresidential program within the community approved by the department. If the department releases a parolee to a nonresidential program, the department shall release the parolee only if he or she will have appropriate community housing pursuant to KRS 439.3408.

(14) If the parole board does not grant parole to a prisoner, the maximum deferment for a prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be twenty-four (24) months. For all other prisoners who are eligible for parole:

(a) No parole deferment greater than five (5) years shall be ordered unless approved by a majority vote of the full board; and

(b) No deferment shall exceed ten (10) years, except for life sentences.

(15) When an order for parole is issued, it shall recite the conditions thereof.

***Section 2. KRS 510.037 is amended to read as follows:***

**KRS 510.037**

The entering of a judgment of conviction for any degree of rape, sodomy, or sexual abuse under this chapter, ***or for a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, or sexual abuse***, shall operate as an application for an interpersonal protective order issued under KRS Chapter 456, unless the victim requests otherwise. Notwithstanding the provisions of KRS Chapter 456:

(1) An interpersonal protective order requested under this subsection may be issued by the court that entered the judgment of conviction;

(2) The judgment of conviction shall constitute sufficient cause for the entry of the order without the necessity of further proof being taken; and

(3) The order may be effective for up to ten (10) years, with further renewals in increments of up to ten (10) years.

**Section 3. KRS 456.010 is amended to read as follows:**

**KRS 456.010**

As used in this chapter:

(1) "Dating relationship" means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:

(a) Declarations of romantic interest;

(b) The relationship was characterized by the expectation of affection;

(c) Attendance at social outings together as a couple;

(d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;

(e) The length and recency of the relationship; and

(f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;

(2) "Dating violence and abuse" means physical injury, serious physical injury, stalking, sexual assault, strangulation, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault occurring between persons who are or have been in a dating relationship;



(3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was not issued on the basis of domestic violence and abuse;

(4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;

(5) "Order of protection" means any interpersonal protective order, including those issued on a temporary basis, and includes a foreign protective order;

(6) "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 **or a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, or sexual abuse**, or incest under KRS 530.020;

(7) "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or 508.150, **or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of stalking**;

(8) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, **or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of strangulation**; and

(9) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

**Section 4. KRS 403.720 is amended to read as follows:**

**KRS 403.720**

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, stalking, sexual abuse, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault between family members or members of an unmarried couple;

(2) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

(3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;

(4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;

(5) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;

(6) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order;

(7) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, **or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of strangulation**; and

(8) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

**Section 5. KRS 504.110 is amended to read as follows:**

**KRS 504.110**

(1) If the court finds the defendant incompetent to stand trial but there is a substantial probability **the defendant** ~~he~~ will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility or a forensic psychiatric facility and order **the defendant** ~~him~~ to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him **or her** finds **the defendant** ~~him~~ competent **to stand trial**, whichever

occurs first, except that if the defendant is charged with a felony, he **or she** shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for Health and Family Services or the secretary's designee determines that the defendant shall be treated in another Cabinet for Health and Family Services facility. Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.

(2) If the court finds the defendant incompetent to stand trial **and** there is no substantial probability he **or she** will attain competency in the foreseeable future:

***(a) The Commonwealth's attorney's office serving the county of criminal prosecution shall immediately petition the Circuit Court that found the defendant incompetent to stand trial or, if the finding was by a District Court, the Circuit Court in the county of criminal prosecution, to initiate an involuntary commitment proceeding under Sections 6 to 10 of this Act if the defendant is charged with a capital offense, a Class A felony, a Class B felony resulting in death or serious physical injury, or a violation of KRS 510.040 or 510.070; or***

***(b) The court shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B if the defendant is charged with an offense not listed in paragraph (a) of this subsection.***

***(3) A defendant who is the subject of an involuntary commitment proceeding under Sections 6 to 10 of this Act shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for Health and Family Services or the secretary's designee determines that the defendant shall be treated in another Cabinet for Health and Family Services facility, during the pendency of the proceeding.***

***(4)***~~(3)~~ If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

**SECTION 6. KRS CHAPTER 202C IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:**

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

- (1) "Cabinet" means the Kentucky Cabinet for Health and Family Services;**
- (2) "Commitment hearing" means the hearing under Section 9 of this Act to determine if a respondent meets the criteria for involuntary commitment under this chapter;**
- (3) "Danger" means substantial physical harm or threat of substantial physical harm upon self or others;**
- (4) "Evidentiary hearing" means the hearing under Section 8 of this Act to determine if the defendant committed the qualifying offense for which he or she was charged by a preponderance of the evidence;**
- (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill persons or individuals with an intellectual disability who have been charged with or convicted of a felony;**
- (6) "Hospital" means:**
- (a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health and Family Services as equipped to provide full-time residential care and treatment for mentally ill persons or individuals with an intellectual disability; or**
- (b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill persons or individuals with an intellectual disability;**
- (7) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;**
- (8) "Judge" means the judge who found the respondent incompetent to stand trial in the criminal proceeding from which the petition for involuntary commitment arose;**

**(9) "Less restrictive alternative mode of treatment" means a treatment given outside of a forensic psychiatric facility which would provide a respondent with appropriate treatment or care consistent with accepted professional practice standards and protect the respondent's safety and the safety of others;**

**(10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;**

**(11) "Qualified mental health professional" means:**

**(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;**

**(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;**

**(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;**

**(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of**

***mental health services or a regional community program for mental health and individuals with an intellectual disability;***

***(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability;***

***(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability;***

***(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability; or***

***(h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:***

- 1. Provides documentation that he or she has completed a psychiatric residency program for physician assistants;***
- 2. Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840,***

***who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;***

***3. Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840, and:***

***a. Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or***

***b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or***

***4. Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:***

***a. Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or***

***b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;***

***(12) "Qualifying offense" means a capital offense, a Class A felony, a Class B felony resulting in death or serious physical injury, or a violation of KRS 510.040 or 510.070;***

***(13) "Respondent" means a person who was a criminal defendant found incompetent to stand trial who is or was the subject of a petition for involuntary commitment filed under KRS Chapter 504;***

***(14) "Review hearing" means any hearing conducted to determine if a respondent continues to meet the criteria for involuntary commitment after the initial order for involuntary commitment has been issued under this chapter; and***

***(15) "Secretary" means the secretary of the Cabinet for Health and Family Services.***

**SECTION 7. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***(1) When a defendant who is charged with a qualifying offense has been found, after a hearing under KRS Chapter 504, to be incompetent to stand trial with no substantial probability that the defendant will attain competency within three hundred sixty (360) days, the Commonwealth's attorney's office serving the county of criminal prosecution shall immediately petition the Circuit Court that found the defendant incompetent to stand trial or, if the finding was by a District Court, the Circuit Court in the county of the criminal prosecution, for an involuntary commitment proceeding, to include an evidentiary hearing and a commitment hearing, if applicable, under this chapter.***

***(2) Upon the filing of the petition, the court shall assign a guardian ad litem to represent the needs and best interest of the respondent. The guardian ad litem shall be a full and active participant in all proceedings other than the evidentiary hearing under Section 8 of this Act and shall independently investigate, assess, and advocate for the defendant's best interest. The guardian ad litem is not a replacement for the defense attorney. If the defendant has retained or been appointed a defense attorney in the criminal case, that attorney may continue to represent the defendant in proceedings under this chapter. If, at any time during the pendency of proceedings under this chapter, the defendant is not represented by an attorney, the court shall appoint counsel for the defendant, without a showing of indigency, to be provided by the Department of Public Advocacy or its designee.***



***(3) The Circuit Court shall have exclusive jurisdiction over all proceedings under this chapter.***

**SECTION 8. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***(1) An adversarial evidentiary hearing on the record shall be held within twenty (20) days, excluding weekends and holidays, of the filing of a petition pursuant to Section 7 of this Act. Appropriate notice shall be served on all parties. The court shall order the Commonwealth to provide all available discovery to the respondent no later than seven (7) days, excluding weekends and holidays, before the hearing. No evidence may be presented at the hearing that has not been disclosed through discovery.***

***(2) The respondent may stipulate to potential guilt and waive the hearing. A stipulation of potential guilt cannot be used against the respondent in any future criminal prosecution or civil litigation.***

***(3) The purpose of the evidentiary hearing shall be to determine whether sufficient evidence exists to support a finding that the respondent is guilty of the charged crime against him or her. The Commonwealth's attorney's office serving the county of criminal prosecution shall have the burden of proving the sufficiency of the evidence by a preponderance of the evidence.***

***(4) The evidentiary hearing shall be held before a judge without a jury. The rules of evidence shall apply. The respondent shall be permitted to present evidence and cross examine witnesses. The respondent may present evidence of affirmative defenses that could be raised at a criminal trial on the charged crime. The Commonwealth shall not have the burden of disproving an affirmative defense. The respondent must prove an affirmative defense by a preponderance of the evidence.***

***(5) (a) If the court determines that sufficient evidence has been presented to support a finding that the respondent is guilty of the charged crime against him or her, the court shall immediately schedule a commitment hearing under this chapter within twenty (20) days, excluding weekends and holidays.***

***(b) The court shall cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall, within seven (7) days, excluding weekends and holidays, prior to the hearing, certify to the court their findings as to whether the respondent meets the criteria for involuntarily commitment under Section 10 of this Act.***

***(6) If the court determines that insufficient evidence has been presented to support a finding that the respondent is guilty of the charged crime against him or her, the court shall order the immediate release of the respondent.***

***(7) No evidence or statement submitted by the respondent at the evidentiary hearing shall be admissible in any criminal prosecution or civil litigation.***

**SECTION 9. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***(1) A commitment hearing shall be held within twenty (20) days, excluding weekends and holidays, after the court finds that the evidence presented in an evidentiary hearing pursuant to Section 8 of this Act supports a finding that the respondent is guilty of the charged crime against him or her by a preponderance of the evidence.***

***(2) The commitment hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at a forensic psychiatric facility, or other suitable place.***

***(3) The Commonwealth's attorney's office serving the county of criminal prosecution which led to the finding that the respondent was incompetent to stand trial shall present evidence regarding whether the respondent meets the criteria for involuntary commitment under Section 10 of this Act. The respondent and the respondent's guardian ad litem shall be afforded an opportunity to testify, to present evidence, and to cross-examine any witnesses.***

***(4) The manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding. The standard of proof shall be proof beyond a reasonable doubt. Proceedings shall be heard by the judge unless a party or the guardian ad litem requests a jury.***

***(5) The respondent's right to the commitment hearing shall not be waived.***

**SECTION 10. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***(1) No respondent shall be involuntarily committed under this chapter unless there is a determination that:***

***(a) The respondent presents a danger to self or others as a result of his or her mental condition;***

***(b) The respondent needs care, training, or treatment in order to mitigate or prevent substantial physical harm to self or others;***

***(c) The respondent has a demonstrated history of criminal behavior that has endangered or caused injury to others or has a substantial history of involuntary hospitalizations under KRS Chapters 202A or 202B prior to the commission of the charged crime; and***

***(d) A less restrictive alternative mode of treatment would endanger the safety of the respondent or others.***

***(2) When a respondent is involuntarily committed under this chapter, the cabinet shall place that respondent in a forensic psychiatric facility designated by the secretary.***

**SECTION 11. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***(1) (a) A review hearing to determine if a respondent involuntarily committed under this chapter should remain in a forensic psychiatric facility shall be conducted by the court that issued the initial order according to the provisions of subsection (2) of this section; and***

***(b) If at any point during the respondent's placement at a forensic psychiatric facility it appears that the respondent no longer meets the criteria for involuntary commitment under Section 10 of this Act because there has been a material change in circumstances or there is new evidence to present, the respondent or the respondent's guardian ad litem may request a review hearing pursuant to this section.***

***(2) The schedule for review hearings shall be as follows:***

***(a) From the initial order of commitment, a standard review hearing shall be conducted not sooner than ninety (90) days and not later than one hundred twenty (120) days;***

***(b) For the first two (2) years after the initial order of commitment, standard review hearings shall be conducted not less than one hundred eighty (180) days and not more than two hundred ten (210) days from the most recent review;***

***(c) Beginning two (2) years after the initial order of commitment, a standard review hearing shall be conducted not more than three hundred sixty-five (365) days from the most recent review hearing; and***

***(d) A heightened review hearing shall be conducted not more than five (5) years from the initial order of commitment and, thereafter, not more than five (5) years from the most recent heightened review hearing.***

***(3) Prior to each standard review hearing, the court shall cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall, within seven (7) days prior to the hearing, excluding weekends and holidays, certify to the court their findings as to whether the respondent meets the criteria for involuntarily commitment under Section 10 of this Act.***

***(4) A standard review hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, or***

***remotely from a forensic psychiatric facility, or other suitable place. The respondent shall be present in person or remotely for all review hearings, unless presence is waived by the respondent through counsel.***

***(5) The Commonwealth's attorney's office serving the county of criminal prosecution which led to finding that the respondent was incompetent to stand trial shall present evidence regarding whether the respondent remains incompetent to stand trial and continues to meet the criteria for involuntary commitment under Section 10 of this Act. The respondent and the respondent's guardian ad litem shall be afforded an opportunity to present evidence, and to cross-examine any witnesses.***

***(6) The manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding. The standard of proof shall be proof beyond a reasonable doubt. Proceedings shall be heard by a judge without a jury, except that a respondent shall be entitled to a jury upon request if the respondent has not had a review hearing with a jury during the preceding twelve (12) months.***

***(7) The respondent's right to this hearing shall not be waived.***

***(8) At the conclusion of a standard review hearing, the court shall make written findings of fact concerning whether the criteria for involuntary commitment under Section 10 of this Act continue to be satisfied based upon proof beyond a reasonable doubt. If the court finds that the criteria continue to be satisfied, the court shall enter an order authorizing the continued care and treatment of the respondent at the forensic psychiatric facility. Otherwise, the court shall enter an order requiring the respondent to be discharged.***

***(9) During a heightened review hearing, the procedures of a standard review hearing shall apply. Additionally, the qualified mental health professionals who evaluated the respondent in preparation for the hearing shall be required to give live testimony and answer questions before the court. The respondent shall be physically present in the courtroom for the hearing. If the respondent is unable to attend for any reason, the hearing shall be rescheduled to a time, place, and manner in which the respondent is able to attend.***

**SECTION 12. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

*In a hearing under Sections 8, 9, and 11 of this Act, the court may exclude all persons not necessary for the conduct of the hearing.*

**SECTION 13. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

*A qualified mental health professional retained by the respondent shall be permitted to witness and participate in any examination of the respondent under this chapter.*

**SECTION 14. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

*In proceedings under this chapter, there shall be no privilege as to any relevant communications between qualified mental health professionals. Qualified mental health professionals may disclose communications relating to diagnosis and treatment of the patient's mental condition.*

**SECTION 15. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

*(1) The court records of a respondent made in all proceedings under this chapter are hereby declared to be confidential and shall not be open to the general public for inspection.*

*(2) Any person seeking information contained in the court files or the court records of proceedings involving respondents under this chapter may file a written motion in the case setting out why the information is needed. A Circuit Judge may issue an order to disclose the information sought if he or she finds that the order is appropriate under the circumstances and if he or she finds it is in the best interest of the respondent or of the public to have such information disclosed.*

**SECTION 16. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***At any time, and without notice, a respondent detained at a forensic psychiatric facility, or a relative, friend, guardian, representative, or attorney on behalf of such person, may petition for a writ of habeas corpus to question the cause and legality of the detention and request that the court issue a writ for release.***

**SECTION 17. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***(1) The court which orders any respondent transferred to a forensic psychiatric facility under subsection (3) of Section 5 or Section 10 of this Act, shall at once notify the receiving hospital or psychiatric facility that such order has been made, advising of the sex and condition of the respondent and any other pertinent information.***

***(2) After the forensic psychiatric facility has been so notified, the court shall order the sheriff of the county or other peace officer to transport the respondent within forty-eight (48) hours, excluding weekends and holidays, from the county in which the respondent is located to the forensic psychiatric facility designated by the cabinet. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the respondent to the forensic psychiatric facility.***

***(3) Any respondent released from a forensic psychiatric facility under Sections 8 or 11 of this Act shall be transported to the respondent's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that respondent. The cost of transporting the respondent to the respondent's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation issued by the cabinet pursuant to KRS Chapter 13A.***

**SECTION 18. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***Forensic psychiatric facilities ordered to receive an involuntarily committed respondent shall have standing to petition the Circuit Court for any necessary clarification or modification of orders or judgments entered in proceedings under this chapter and to appeal from final judgments or orders entered in proceedings which have not complied with the provisions of this chapter. A copy shall be sent to the involuntarily committed respondent, the respondent's guardian ad litem, and the respondent's attorney of record, of whatever pleadings are filed by the hospital.***

**SECTION 19. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***A respondent involuntarily committed under this chapter shall have the following rights as a patient:***

- (1) The right to be adequately informed as to his or her individual treatment program;***
- (2) The right to assist in the planning of his or her treatment program;***
- (3) The right to refuse treatment subject to the provisions of Section 20 of this Act;***
- (4) The right to maintain, keep, and use personal possessions and money;***
- (5) The right to receive visitors;***
- (6) The right to receive payment for work performed on behalf of the forensic psychiatric facility;***
- (7) The right to refuse intrusive treatment subject to the provisions of Section 20 of this Act;***
- (8) The right to be free from unreasonable use of seclusion and restraint;***
- (9) The right to seek relief from participating in his or her treatment plan; and***



***(10) The right to the assistance of counsel to uphold these rights and all rights under this chapter.***

**SECTION 20. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

***(1) Every forensic psychiatric facility caring for respondents involuntarily committed under this chapter shall have a review committee of three (3) qualified mental health professionals appointed by the facility director. This review committee shall have the authority to review the appropriateness of a respondent's individual treatment plan.***

***(2) Upon the refusal of a respondent to participate in any or all aspects of his or her treatment plan, the review committee shall examine the appropriateness of the respondent's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the respondent and his or her counsel, guardian ad litem, or other representative to discuss its recommendations.***

***(3) If the respondent still refuses to participate in any or all aspects of his or her individual treatment plan, the forensic psychiatric facility may petition the Circuit Court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, excluding weekends and holidays, the court shall conduct a hearing, consistent with the respondent's rights to due process of law, and shall utilize the following factors in reaching its determination:***

***(a) Whether the treatment is necessary to protect the respondent or others from harm;***

***(b) Whether the respondent is incapable of giving informed consent to the proposed treatment;***

***(c) Whether any less restrictive alternative mode of treatment exists; and***

***(d) Whether the proposed treatment carries any risk of permanent side effects.***

***(4) Upon the completion of the hearing, the court shall enter an appropriate judgment.***

**SECTION 21. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

*This chapter shall not apply to persons under eighteen (18) years of age unless specifically authorized by the Kentucky Unified Juvenile Code.*

**SECTION 22. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:**

*This cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A in order to carry out the provisions of this chapter.*

**Section 23. KRS 31.110 is amended to read as follows:**

*(1) A needy person who is being detained by a law enforcement officer, on suspicion of having committed, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, or who is accused of having committed a public or status offense or who has been committed to the Department of Juvenile Justice or Cabinet for Health and Family Services for having committed a public or status offense as those are defined by KRS 610.010(1), 610.010(2)(a), (b), (c), or 630.020(2) is entitled:*

*(a) To be represented by an attorney to the same extent as a person having his or her own counsel is so entitled; and*

*(b) Except as provided in subsection (2)(c) of this section, to be provided with the necessary services and facilities of representation, including investigation and other preparation. The courts in which the defendant is tried shall waive all costs.*

*(2) A needy person who is entitled to be represented by an attorney under subsection (1) of this section is entitled:*

*(a) To be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his or her own counsel would be entitled to be represented by an attorney and including revocation of probation or parole;*

***(b) To be represented in any appeal; and***

***(c) To be represented in any other post-conviction, or, if a minor under the age of eighteen (18), post-disposition proceeding, including any appeal from a post-conviction or post-disposition action.***

***However, if the department and the court of competent jurisdiction determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his or her own expense, there shall be no further right to be represented by counsel under the provisions of this chapter. In cases involving a minor under the age of eighteen (18), prior to making a determination on whether or not a post-disposition action is a proceeding that a reasonable person with adequate means would be willing to bring at his or her own expense, an attorney with the department shall be granted access to the court file of the minor:***

***1. Without the requirement of a formal court order in which the attorney has provided a release signed by the minor or the minor's legal guardian authorizing the use of the records; and***

***2. Notwithstanding any other statute prohibiting the disclosure of a juvenile court file.***

***(3) A needy person's right to a benefit under subsection (1) or (2) of this section is not affected by his or her having provided a similar benefit at his or her own expense, or by he or she having waived it, at an earlier stage.***

***(4) A person, whether a needy person or not, who is a minor under the age of eighteen (18) and who is in the custody of the Department of Juvenile Justice and is residing in a residential treatment center or detention center is entitled to be represented on a legal claim related to his or her confinement involving violations of federal or state statutory rights or constitutional rights. Prior to representation, an attorney with the department shall be granted access to the court file of the minor and residential treatment center or detention center records pertaining to the juvenile:***

***(a) Without entering an appearance as an attorney of record; and***

***(b) Notwithstanding any other statute prohibiting the disclosure of a juvenile's record, including KRS 15A.0651, 610.320, 610.340, or 610.345.***

***(5) A person, whether a needy person or not, who is subject to a proceeding under Sections 6 to 22 of this Act and is unrepresented at any time shall be entitled to the same rights of representation as a needy person under subsection (1) of this section.***

***Section 24. Whereas protecting the safety of the people of Kentucky is an immediate and compelling need, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.***

**Action: Signed by Governor on March 25, 2021. (Acts Ch. 123).**

## **HOUSE BILL 312                      OPEN RECORDS**

***Section 1. KRS 61.870 is amended to read as follows:***

### **KRS 61.870**

As used in KRS 61.870 to 61.884, unless the context requires otherwise:

(1) "Public agency" means:

(a) Every state or local government officer;

(b) Every state or local government department, division, bureau, board, commission, and authority;

(c) Every state or local legislative board, commission, committee, and officer;

(d) Every county and city governing body, council, school district board, special district board, and municipal corporation;

(e) Every state or local court or judicial agency;

(f) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;

(g) Any body created by state or local authority in any branch of government;

(h) Any body which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds. However, any funds derived from a state or local authority in compensation for goods or services that are provided by a contract obtained through a public competitive procurement process shall not be included in the determination of whether a body is a public agency under this subsection;

(i) Any entity where the majority of its governing body is appointed by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or

(k) of this subsection; by a member or employee of such a public agency; or by any combination thereof;

(j) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established, created, and controlled by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this subsection; and

(k) Any interagency body of two (2) or more public agencies where each public agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or

(j) of this subsection;

(2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned or maintained by or for a body referred to in subsection (1)(h) of this section that are not related to functions, activities, programs, or operations funded by state or local authority;

(3) (a) "Software" means the program code which makes a computer system function, but does not include that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user

identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system.

(b) "Software" consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency;

(4) (a) "Commercial purpose" means the direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee.

(b) "Commercial purpose" shall not include:

1. Publication or related use of a public record by a newspaper or periodical;

2. Use of a public record by a radio or television station in its news or other informational programs; or

3. Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties;

(5) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control;

(6) "Custodian" means the official custodian or any authorized person having personal custody and control of public records;

(7) "Media" means the physical material in or on which records may be stored or represented, and which may include, but is not limited to paper, microform, disks, diskettes, optical disks, magnetic tapes, and cards;

(8) "Mechanical processing" means any operation or other procedure which is transacted on a machine, and which may include, but is not limited to a copier, computer, recorder or tape processor, or other automated device;

(9) "Booking photograph and photographic record of inmate" means a photograph or image of an individual generated by law enforcement for identification purposes when the individual is booked into a detention facility as defined in KRS 520.010 or photograph and image of an inmate taken pursuant to KRS 196.099; **and**

**(10) "Resident of the Commonwealth" means:**

**(a) An individual residing in the Commonwealth;**

**(b) A domestic business entity with a location in the Commonwealth;**

**(c) A foreign business entity registered with the Secretary of State;**

**(d) An individual that is employed and works at a location or locations within the Commonwealth;**

**(e) An individual or business entity that owns real property within the Commonwealth;**

**(f) Any individual or business entity that has been authorized to act on behalf of an individual or business entity defined in paragraphs (a) to (e) of this subsection; or**

**(g) A news-gathering organization as defined in KRS 189.635(8)(b)1.a. to e..**

**Section 2. KRS 61.872 is amended to read as follows:**

#### **KRS 61.872**

(1) All public records shall be open for inspection by any **resident of the Commonwealth** ~~person~~, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No **resident of the Commonwealth** ~~person~~ shall remove original copies of public records from the offices of any

public agency without the written permission of the official custodian of the record.

(2) Any **resident of the Commonwealth** person shall have the right to inspect public records. The official custodian may require a written:

~~(a) Written application, signed by the applicant and with his name printed legibly on the application, describing the records to be inspected. **The official custodian may require the applicant to provide a statement in the written application of the manner in which the applicant is a resident of the Commonwealth under paragraphs (a) to (f) of subsection (10) of Section 1 of this Act.**~~

(a) The written application shall be:

1. Hand delivered;

2. Mailed; or

3. Sent via facsimile to the public agency; or

**4. Sent via e-mail to the public agency's official custodian of public records or his or her designee at the e-mail address designated in the public agency's rules and regulations adopted pursuant to Section 3 of this Act**

~~(b) Facsimile transmission of the written application described in paragraph (a) of this subsection; or~~

~~(c) E-mail of the application described in paragraph (a) of this subsection.~~

**(b) A public agency shall not require the use of any particular form for the submission of an open records request, but shall accept for any request the standardized form developed under subsection (4) of Section 3 of this Act.**

(3) A **resident of the Commonwealth** person may inspect the public records:

(a) During the regular office hours of the public agency; or

(b) By receiving copies of the public records from the public agency through the mail. The public agency shall mail copies of the public records to a person whose residence or principal place of business is outside the county



in which the public records are located after he precisely describes the public records which are readily available within the public agency. If the **resident of the Commonwealth** ~~person~~ requesting the public records requests that copies of the records be mailed, the official custodian shall mail the copies upon receipt of all fees and the cost of mailing.

(4) If the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.

(5) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection of the public records, not to exceed **five (5)** ~~three (3)~~ days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection.

(6) If the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section shall be sustained by clear and convincing evidence.

**Section 3. KRS 61.876 is amended to read as follows:**

**KRS 61.876**

(1) Each public agency shall adopt rules and regulations in conformity with the provisions of KRS 61.870 to 61.884 to provide full access to public records, to protect public records from damage and disorganization, to prevent excessive disruption of its essential functions, to provide assistance and information upon request and to insure efficient and timely action in response to application for inspection, and such rules and regulations shall include, but shall not be limited to:

(a) The principal office of the public agency and its regular office hours;

(b) The title, **mailing address**, and **e-mail** address of the official custodian of the public agency's records;

(c) The fees, to the extent authorized by KRS 61.874 or other statute, charged for copies;

(d) The procedures to be followed in requesting public records.

(2) Each public agency shall display ~~a copy of its rules and regulations pertaining to public records~~ in a prominent location accessible to the public, **including on its Web site:**

**(a) A copy of its rules and regulations pertaining to public records;**

**(b) The mailing address, e-mail address, and phone number of the official custodian of the records or his or her designee to which all requests for public records shall be made; and**

**(c) The form developed by the Attorney General under subsection (4) of this section that may be used to request public records.**

(3) The Finance and Administration Cabinet may promulgate **administrative regulations pursuant to KRS Chapter 13A, pertaining to public records**, ~~uniform rules and regulations~~ for all state administrative agencies, **except for the Legislative Research Commission and the Administrative Office of the Courts, each of which may promulgate administrative regulations for their respective agencies, pertaining to public records.**

**(4) The Attorney General shall promulgate by administrative regulation under KRS Chapter 13A a standardized form that may be used to request public records from a public agency. The form shall not allow any request for information other than the following:**

**(a) The name of the requesting party;**

**(b) The mailing or e-mail address of the requesting party, if copies of records are requested;**

**(c) Whether the request is for a commercial purpose;**

**(d) A description of the documents requested;**

**(e) A statement that the person making the request:**

**1. Is a resident of the Commonwealth under subsection (10) of Section 1 of this Act; and**

**2. The statement includes the manner in which the requester is a resident of the Commonwealth under paragraphs (a) to (f) of subsection (10) of Section 1 of this Act; and**

**(f) The signature of the requesting party.**

**(5) The Attorney General shall make the form readily available to the public, including on the Attorney General's Web site. The form shall be accepted by every public agency for any request for public records made on or after the effective date of this Act.**

**Section 4. KRS 61.878 is amended to read as follows:**

#### **KRS 61.878**

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) 1. ~~Upon and after July 15, 1992,~~ Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;

2. ~~Upon and after July 15, 1992,~~ Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

a. In conjunction with an application for or the administration of a loan or grant;

b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;

c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

d. For the grant or review of a license to do business.

3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;

(e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;

(f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;

(h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(k) All public records or information the disclosure of which is prohibited by federal law or regulation **or state law**;

(l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under KRS 131.190;

(m) 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in

preventing, protecting against, mitigating, or responding to a terrorist act and limited to:

- a. Criticality lists resulting from consequence assessments;
- b. Vulnerability assessments;
- c. Antiterrorism protective measures and plans;
- d. Counterterrorism measures and plans;
- e. Security and response needs assessments;
- f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
- g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and
- h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.

2. As used in this paragraph, "terrorist act" means a criminal act intended to:

- a. Intimidate or coerce a public agency or all or part of the civilian population;
- b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
- c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS

61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.

4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.

5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;

(n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law;

(o) Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:

1. A contract is awarded; or

2. The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited; and

***(p) Client and case files maintained by the Department of Public Advocacy or any person or entity contracting with the Department of Public Advocacy for the provision of legal representation under KRS Chapter 31; and***

***(q)*** Communications of a purely personal nature unrelated to any governmental function.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university

employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

***Section 5. KRS 61.880 is amended to read as follows:***

**KRS 61.880**

(1) If a person enforces KRS 61.870 to 61.884 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section. Each public agency, upon any request for records made under KRS 61.870 to 61.884, shall determine within ***five (5)*** ~~three (3)~~ days, excepting Saturdays, Sundays, and legal holidays, after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the ***five (5)*** ~~three (3)~~ day period, of its decision. An agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority, and it shall constitute final agency action.

(2) (a) If a complaining party wishes the Attorney General to review a public agency's denial of a request to inspect a public record, the complaining



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

(b) In unusual circumstances, the Attorney General may extend the twenty (20) day time limit by sending written notice to the complaining party and a copy to the denying agency, setting forth the reasons for the extension, and the day on which a decision is expected to be issued, which shall not exceed an additional thirty (30) work days, excepting Saturdays, Sundays, and legal holidays. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper resolution of an appeal:

1. The need to obtain additional documentation from the agency or a copy of the records involved;
2. The need to conduct extensive research on issues of first impression; or
3. An unmanageable increase in the number of appeals received by the Attorney General.

(c) On the day that the Attorney General renders his decision, he shall mail a copy to the agency and a copy to the person who requested the record in question. The burden of proof in sustaining the action shall rest with the agency, and the Attorney General may request additional documentation from the agency for substantiation. The Attorney General may also request a copy of the records involved but they shall not be disclosed.

(3) Each agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding the enforcement of KRS 61.870 to 61.884. The Attorney General shall not, however, be named as a party in any Circuit Court actions regarding the enforcement of KRS 61.870 to 61.884, nor shall he have any duty to defend his decision in Circuit Court or any subsequent proceedings.

(4) If a person feels the intent of KRS 61.870 to 61.884 is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees, **delay past the five (5) day period described in subsection (1) of this section, excessive extensions of time**, or the misdirection of the applicant, the person may complain in writing to the Attorney General, and the complaint shall be subject to the same adjudicatory process as if the record had been denied.

(5) (a) A party shall have thirty (30) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the thirty (30) day time limit shall be treated as if it were an action brought under KRS 61.882.

(b) If an appeal is not filed within the thirty (30) day time limit, the Attorney General's decision shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or the Circuit Court of the county where the public record is maintained.

**Section 6. KRS 7.119 is amended to read as follows:**

#### **KRS 7.119**

(1) Records in the custody of the Legislative Research Commission or the General Assembly shall be available for distribution to the public, or open for inspection by any person **who is a resident of the Commonwealth**.

(2) As used in subsection (1) of this section, "records" includes bills and amendments introduced in the Senate or House of Representatives, Senate and House Journals, Acts of the General Assembly, roll call votes, final reports of committees, Kentucky Administrative Regulations, documents showing salary and expenses paid to members of the General Assembly and all employees of the legislative branch, contracts, receipts and work orders for repairs or renovations to legislative offices or facilities, items cataloged in the legislative library, the Legislative Record, and informational and educational materials offered by the public information office, including legislative videotapes and photographs, calendars, and meeting notices.

(3) Requests for records ~~or other documents~~ in the custody of the Legislative Research Commission or the General Assembly **set forth in**

**subsection (2) of this section** shall be directed to the director of the Legislative Research Commission, who shall determine within five (5) days, excepting Saturdays, **Sundays, and legal holidays, after the receipt of the request whether to comply with the request, and shall, in writing notify the person making the request of his or her decision.** ~~Except for KRS 61.880(3), provisions of the Open Records Act, KRS 61.870 to 61.884, shall apply to a request for inspection or copies of documents or other items not set forth in subsection (2) of this section, and except that A request for a review [under KRS 61.880 of any determination by the director~~ **regarding a request for records set forth in subsection (2) of this section** shall be made to the Legislative Research Commission, which shall issue its decision within thirty (30) days **of the first scheduled meeting held following receipt for review.** If the Legislative Research Commission does not issue its decision on a review of the director's determination within thirty (30) days of **the first scheduled meeting held following receipt of the request for review, the review shall be considered denied** ~~submission to it of the matter, the director's determination may be appealed to the Franklin Circuit Court within sixty (60) days of its issuance. For purposes of this subsection, any reference to the Attorney General in KRS 61.880 and 61.882 shall be read as the Legislative Research Commission.~~

**(4) If a request for records in the custody of the Legislative Research Commission or the General Assembly not described in subsection (2) of this section or in KRS 7.117 is made to the director of the Legislative Research Commission, those records shall not be subject to disclosure. A request for review of the denial of the disclosure shall be made to the Legislative Research Commission, which shall issue its decision within thirty (30) days of the first scheduled meeting held following receipt of the request for review. That decision shall be final and unappealable.**

**(5) Once a request for records is made, and unless otherwise permitted by statute, if the Legislative Research Commission determines that a denial of disclosure related to that request was properly made, no member of the Commission, the General Assembly, or the staff of the Legislative Research Commission shall**

***knowingly or intentionally disclose to any person the records that were the subject of the denied request. Violation of this subsection is a violation under KRS 6.734.***

***(6) (a) If a public agency other than the Legislative Research Commission receives a request for inspection of a public record that may fall under subsection (2) of this section, the official custodian of the records for the public agency shall notify the director of the Legislative Research Commission within two (2) days of receipt of the request. The official custodian of records for the public agency that received the request shall be required to respond to the request.***

***(b) If the Legislative Research Commission receives a request relating to a specific member of the General Assembly, the director shall notify that member within one (1) day of receipt of the request.***

***(7) Nothing in this section shall be construed as a waiver or diminishment of any constitutional, common law, or statutory defenses, privileges, or immunities that may apply to any member of the General Assembly, legislative staff, legislative agency or entity, or any other member or employee of the legislative branch.***

**Action: Vetoed by Governor on March 23, 2021; veto overridden on March 29, 2021; delivered to Secretary of State on March 29, 2021 (Acts Ch. 160).**

## **HOUSE BILL 389**

## **JUVENILES**

***Section 1. KRS 620.140 is amended to read as follows:***

### **KRS 620.140**

**(1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:**

(a) Informal adjustment of the case ***by agreement, which may be entered into at any time. Informal adjustment may include an agreed plan by which:***

***1. The parent or other person exercising custodial control or supervision agrees that grounds exist for a finding of dependency, neglect, or abuse, and agrees to the conditions of protective orders under paragraph (b) of this subsection for a duration of up to one (1) year;***

***2. The action will be dismissed by the court, without hearing, at the end of the period agreed upon if no motion is brought alleging a violation of a protective order; and***

***3. If a motion is brought alleging a violation of a protective order, a hearing will be held at which the parent or other person exercising custodial control or supervision may contest the alleged violation, but may not contest the original grounds for a finding of dependency, neglect, or abuse. If a violation is found to have occurred, the court may consider other dispositional alternatives pursuant to this section;***

(b) Protective orders, such as the following:

1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;

2. Placing the child in his or her own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and

3. Orders authorized by KRS 403.715 to 403.785 and by KRS Chapter 456;

(c) Removal of the child to the custody of an adult relative, fictive kin, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his or her home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child. If a

child is to be placed with an adult relative or fictive kin the parent or other person exercising custodial control or supervision shall provide a list to the cabinet of possible persons to be considered;

(d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or

(e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining nineteen (19) years of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).

(2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

**Action: Signed by Governor on April 5, 2021. (Acts Ch. 179).**

## **HOUSE BILL 402                      FLAGRANT NONSUPPORT**

***Section 1. KRS 530.050 is amended to read as follows:***

### **KRS 530.050**

(1) A person is guilty of nonsupport:

(a) When he ***or she*** persistently fails to provide support which he ***or she*** can reasonably provide and which ***the person*** he knows he ***or she*** has a duty to provide to a minor, ~~or to~~ a child adjudged mentally disabled, ***an*** indigent spouse, or indigent parent; or

(b) Upon a finding that a defendant obligor, subject to court order to pay any amount for the support of a minor child, is delinquent in meeting the full obligation established by ***the court order***, and has been so delinquent for a period of at least two (2) months duration.

(2) A person is guilty of flagrant nonsupport when he **or she** persistently fails to provide support which he **or she** can reasonably provide and which **the person** he knows he **or she** has a duty to provide by virtue of a court or administrative order to a minor, ~~or to~~ a child adjudged mentally disabled, **an** indigent **spouse**, or indigent parent, and the failure results in:

(a) An arrearage of not less than **two** ~~one~~ thousand **five hundred** dollars **(\$2500)** ~~(\$1000)~~; or

(b) Six (6) consecutive months without payment of support; or

(c) The dependent having been placed in destitute circumstances. For the purposes of this paragraph, it shall be prima facie evidence that a dependent has been placed in destitute circumstances if the dependent is a recipient of public assistance as defined in KRS 205.010.

(3) A person has a duty to provide support for an indigent spouse, a minor child or children, or a child or children adjudged mentally disabled and, for purposes of this section, is presumed to know of that duty.

(4) Any person who is eighteen (18) years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.

(5) Nonsupport is a Class A misdemeanor. For a second offense, the person shall receive a minimum sentence of seven (7) days in jail. For a third or any subsequent offense, the person shall receive a minimum sentence of thirty (30) days in jail.

(6) Flagrant nonsupport is a Class D felony.

**Action: Signed by Governor on March 19, 2021 (Acts Ch. 51).**

# HOUSE BILL 439

# VISION TESTING FOR MOTOR VEHICLE OPERATORS

**(Effective July 1, 2024).**

**Section 1. KRS 186.577 is amended to read as follows:**

## **KRS 186.577**

**(1) (a) The following persons shall submit to a test of visual acuity and visual field at the time of application or renewal:**

- 1. All persons applying for an initial *or renewal* operator's license;**
- 2. All persons applying for ~~or~~ an initial *or renewal* instruction permit; and**
- 3. Any person required to complete an examination under KRS 186.635 shall submit to a test of visual acuity and visual field at the time of application.**

**(2) Vision testing under this section shall be administered to any person:**

**(a) Applying for an initial operator's license, an initial instruction permit, or reinstatement of a license when vision must be tested as required in Section 2 of this Act:**

- 1. Prior to the time of application under subsection (5) of this section;  
or**
- 2. By Kentucky State Police at the time of application;**

**(b) Applying for operator's license renewal or instruction permit renewal:**

- 1. Prior to the time of application under subsection (5) of this section;  
or**
- 2. By the Transportation Cabinet at the time of application; or**

**(c) Identified in Kentucky administrative regulations promulgated by the Transportation Cabinet or the Kentucky State Police as being required to undergo the exam required by Section 2 of this Act.**



~~(3)(2)~~ **(a)** Persons whose visual acuity is 20/40 or better *and who meet or exceed the visual field standard established by the Transportation Cabinet* without corrective lenses shall not have a restriction placed on their driving privileges.

**(b)** Persons whose visual acuity is 20/40 or better *and who meet or exceed the visual field standard established by the Transportation Cabinet* with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses.

**(c)** If a person fails to meet a 20/40 visual acuity standard *or the visual field standard established by the cabinet*, the Department of Kentucky State Police shall refer the person *shall be referred* to a vision specialist for examination.

~~(4)(3)~~ A person referred to a vision specialist by the Department of Kentucky State Police under subsection **(3)** ~~(2)~~ of this section whose visual acuity is 20/60 or better *and who meets or exceeds the visual field standard established by the cabinet* shall be eligible to test for an instruction permit or operator's license, *or shall be eligible for operator's license renewal*. If corrective lenses were prescribed by the vision specialist, the person's driving privileges shall be restricted to mandate the use of the corrective lenses.

**(5)** *Vision tests administered under paragraph (a) of subsection (2) of this section shall be deemed to meet the testing provisions outlined in subsections (3) or (4) of this section, if the person submits a driver vision testing form that complies with the provisions of subsection (6) of this section and the form has been completed by:*

**(a)** *A vision specialist; or*

**(b)** *An osteopath, physician, or advanced practice registered nurse who is credentialed by the cabinet to perform vision testing under this section.*

**(6)** *All driver vision testing forms completed under subsection (5) of this section shall:*

**(a)** *Attest that the applicant meets or exceeds the visual acuity standard and visual field standard established by the cabinet;*

***(b) Only be valid if the vision specialist or the credentialed osteopath, credentialed physician, or credentialed advanced practice registered nurse signed and completed the vision testing form less than twelve (12) months prior to the date of application or renewal;***

***(c) State whether the driving privileges of the applicant shall be restricted to mandate the use of corrective lenses; and***

***(d) Clearly indicate that the vision testing under this section is a screening for minimum vision standards established in this section and is not a complete eye examination.***

***(7) Any person seeking application or permit under subsection (1) of this section shall attest that he or she has submitted to and passed the visual acuity and visual field tests required under this section.***

***(8) Any person renewing an operator's license under KRS 186.416 shall be exempt from the vision testing requirements outlined in this section.***

***(9)(4) Persons who meet the requirements of KRS 186.578 and are issued operator's licenses under KRS 186.579 shall:***

***(a) Have their driving privileges restricted to the use of a bioptic telescopic device; and***

***(b) Be exempt from this section.***

***(10) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section, including but not limited to establishing visual field standards, the creation of a driver vision testing form, and establishing a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under this section.***

***(11) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to:***

***(a) Implement a system for electronic transmission of driver vision testing forms and accompanying documentation; and***

***(b) Assess a fee to an applicant to cover the administrative costs of performing on-site vision testing. Any funds received from this fee shall be deposited into the photo license account established in Section 3 of this Act.***

***Section 2. KRS 186.480 is amended to read as follows:***

**KRS 186.480**

(1) The Department of Kentucky State Police shall examine every applicant for an operator's license as identified in KRS 186.635, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:

(a) The applicant is granted written permission by the Transportation Cabinet to take the examination in another county, ~~and the Department of Kentucky State Police agree to arrange for the examination in the other county;~~ or

(b) The applicant is tested using a bioptic telescopic device.

(2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity and visual field standards set forth in **Section 1 of this Act** ~~KRS 186.577~~. **The vision testing outlined in this subsection shall be administered under the provisions established in Section 1 of this Act at, or prior to, the time of application.** The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic, the applicant's knowledge of traffic laws, and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his or her ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or

(b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.

(3) Any person whose intermediate license or operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

(4) An applicant shall not use an autocycle for road skills testing administered under the provisions of this section.

**Section 3. KRS 174.056 is amended to read as follows:**

**KRS 174.056**

(1) The KYTC photo license account is created within the road fund, to be administered by the Transportation Cabinet. The account shall consist of the portion of fees directed to the account under KRS 186.531, **Section 1 of this Act**, and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the account.

(2) Notwithstanding KRS 45.229, any moneys remaining in the account not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(3) Any interest earnings of the account shall become a part of the account and shall not lapse.

(4) Moneys in the account shall be used for the purposes of verifying, creating, and distributing secure photo instruction permits, operator's licenses, and personal identification cards and are hereby appropriated for these purposes.

Section 4. This Act takes effect July 1, 2024.

**Action: Signed by Governor on March 25, 2021 (Acts Ch. 126).**

**HOUSE BILL 472**

**CHILD ABUSE**

**EMERGENCY**

**Section 1. KRS 500.050 is amended to read as follows:**

## KRS 500.050

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.

(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one (1) year after it is committed.

**(3) (a)** For a misdemeanor ~~sex~~ offense under ~~KRS Chapter 510~~ when the victim is ~~a minor under the age of eighteen (18)~~ at the time of the offense, the prosecution of the offense shall be commenced within ~~ten (10) five (5)~~ years after the victim attains the age of eighteen (18) years.

**(b) As used in paragraph (a) of this subsection, "misdemeanor sex offense" means a misdemeanor offense in:**

**1. KRS Chapter 510;**

**2. KRS Chapter 531 involving a minor or depiction of a minor; or**

**3. KRS 506.010 or 506.030 for attempt to commit or solicitation to commit:**

**a. Any of the offenses described in subparagraphs 1. and 2. of this paragraph;**

**b. Promoting prostitution under KRS 529.040 when the defendant advances or profits from the prostitution of a minor;**

**c. Human trafficking involving commercial sexual activity under KRS 529.100;**

**d. Promoting human trafficking involving commercial sexual activity under KRS 529.110; or**

**e. Unlawful transaction with a minor in the first degree under KRS 530.064(1)(a).**

(4) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

**Section 2. KRS 413.249 is amended to read as follows:**

**KRS 413.249**

(1) As used in this section:

(a) "Childhood sexual assault **or abuse**" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a **misdemeanor or felony in:**

**1. KRS Chapter 510;**

**2. KRS 529.040 when the defendant advances or profits from the prostitution of a minor; in ~~KRS 510.040, 510.050, 510.060, 510.070, 13 510.080, 510.090, 510.110,~~**

**3. KRS 529.100 when** where the offense involves commercial sexual activity; ;

**4. KRS 529.110 when** where the offense involves commercial sexual activity; ;

**5. KRS 530.020 or ; 530.064(1)(a); ; ~~531.310, or 531.320~~**

**6. KRS Chapter 531 involving a minor or depiction of a minor; or**

**7. KRS 506.010 or 506.030 for attempt to commit or solicitation to commit any of the offenses described in subparagraphs 1. to 6. of this paragraph.**

No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault **or abuse**;

(b) "**Entity**" means a firm, partnership, company, corporation, trustee, association, or any private or public entity, including the Commonwealth, a city, county, urban-county, consolidated local government, unified local government, or charter county government, or any of their agencies, departments, or any KRS 58.180 nonprofit nonstock corporation; and "~~Childhood sexual abuse~~" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in ~~KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150.~~ No prior criminal prosecution or conviction

~~of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;~~

~~(c) "Child" means a person less than eighteen (18) years old; and~~

~~(d) "Injury or illness" means either a physical or psychological injury or illness.~~

(2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual **assault or** abuse ~~or childhood sexual assault~~ shall be brought before whichever of the following periods last expires:

(a) Within ten (10) years of the commission of the act or the last of a series of acts by the same perpetrator;

(b) Within ten (10) years of the date the victim knew, or should have known, of the act; 19 (c) Within ten (10) years after the victim attains the age of eighteen (18) years; or

(d) Within ten (10) years of the conviction of a civil defendant for an offense included in the definition of childhood sexual **assault or** abuse ~~or childhood sexual assault~~.

***(3) The time periods set forth in subsection (2) of this section shall apply to a civil action for recovery of damages for injury or illness against;***

***(a) A person alleged to have committed the act of childhood sexual assault or abuse; or (b) An entity that owed a duty of care to the plaintiff, where a wrongful or negligent act by an employee, officer, director, official, volunteer, representative, or agent of the entity was a legal cause of the childhood sexual assault or abuse that resulted in the injury to the plaintiff.***

(4) If a complaint is filed alleging that an act of childhood sexual assault or abuse occurred more than ten (10) years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:

(a) The court rules upon the motion to seal;

(b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or

(c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

***(5) A victim of childhood sexual assault or abuse shall not have a cause of action against a third party, unless the third party failed to act as a reasonable person or entity in complying with their duties to the victim. If a victim of childhood sexual assault or abuse has a cause of action under this section, the cause of action shall be commenced within the time period set forth in subsection (2) of this section.***

***(6) (a) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for excluding evidence regarding childhood sexual assault or abuse or the cause thereof when an exception to the Kentucky Rules of Evidence is met, in any judicial proceeding. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding childhood sexual assault or abuse.***

***(b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is limited to information received solely through confidential communications with a clergy member, privately or in a confessional setting, when in the course of the discipline or practice of the clergy member's church, denomination, or organization, he or she is authorized or accustomed to hearing those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.***



***(7) (a) As was its intention with the passage of 2017 Ky. Acts ch. 114, sec. 2, the General Assembly hereby states that the amendments enacted in 2017 Ky. Acts ch. 114, sec. 2 shall be applied retroactively to actions accruing before its effective date of June 29, 2017. This section is a remedial statute which is to be given the most liberal interpretation to provide remedies for victims of childhood sexual assault or abuse.***

***(b) Notwithstanding any provision of law to the contrary, any claim for childhood sexual assault or abuse that was barred as of the effective date of this Act because the applicable statute of limitations had expired is hereby revived, and the action may be brought if commenced within five (5) years of the date on which the applicable statute of limitations expired.***

Section 3. This Act shall apply to causes of action accruing on or after the effective date of this Act, and to causes of action accruing before the effective date of this Act, if the applicable statute of limitations, as it existed prior to this Act, has not yet run before the effective date of this Act.

Section 4. The restrictions of KRS 6.945(1) shall not apply to Sections 1 and 2 of this Act.

Section 5. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 6. Whereas Kentucky has the highest rate of child abuse in the country, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Action: Signed by Governor on March 23, 2021 (Acts Ch. 89).**

## **HOUSE BILL 513**

## **SHERIFFS' FEES**

**SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:**

***If the governing body of a city, county, urban-county government, consolidated local government, charter county, or unified local government levies or imposes a special tax, license, fee, or other charge to be collected as part of a tax bill by the sheriff, the sheriff shall negotiate a collection fee with the governing body. The local government then shall set the negotiated collection fee, and the sheriff shall retain an amount not to exceed four and one-fourth percent (4.25%) of the special tax, license, fee, or other charge collected, if no other compensation is otherwise authorized.***

**Action: Signed by Governor on March 25, 2021 (Acts Ch. 127).**

## **SUMMARY OF LEGISLATION ENACTED BY 2021 KENTUCKY GENERAL ASSEMBLY**

The 2021 regular session of the Kentucky General Assembly produced a number of pieces of legislation of interest to law enforcement. This is a brief review of some of the more noteworthy bills. Officers are encouraged to go to <https://legislature.ky.gov> and click the link to Bills to read the new legislation in its entirety. Unless enacted as Emergency Legislation or the bill specified a later effective date, all new laws and amendments will become effective on June 29, 2021.

**Senate Bill 4:** This bill is perhaps the most noteworthy and publicly discussed of the legislation from this session. It places limits on the use of no-knock warrants. They will be permitted in cases where it is established to the court by clear and convincing evidence that the case involves a crime what would qualify a person, if convicted, as a violent offender under KRS 439.3401, or violations of KRS 525.040, 527.200, 527.205, and 527.210. Also, no-knock warrants would be allowed if it were established by facts specific to the case that giving prior notice would endanger life or result in loss of destruction of evidence for the aforementioned charges. Entry must be between 6 am and 10 pm unless there are exigent circumstances established to the court requiring entry at a later hour. The bill specifies that the warrant shall be executed by SWAT officers or other officers who are part of an established trained team, unless such trained officers are not available and the court is convinced by clear and convincing evidence of the need to execute the warrant in a timely manner. Officers shall have body-worn cameras, and that a certified or licensed paramedic is in proximity and available to provide medical assistance, if needed.

**Senate Bill 11:** Amends KRS 512.010 to define "lease or rental agreement", "residential rental property", and "tenant"; and amends KRS 512.020, 512.030, and 512.040 to specifically include damage to residential rental property in the crime of criminal mischief.

**Senate Bill 52:** Amends KRS 510.060, Rape in the Third Degree, to include a peace officer who subjects a person in custody or under arrest to sexual intercourse. In addition, it amends KRS 510.090, Sodomy in the Third Degree, to include a peace officer who subjects a person in custody or under arrest to deviate sexual

intercourse. Finally, it amends KRS 510.120, Sexual Abuse in the Second Degree, to include a peace officer who subjects a person in custody or under arrest to sexual contact.

**Senate Bill 64:** Amends KRS 510.010 to define "registrant" and "adult intermediary", and KRS 510.155 to include communications with adult intermediaries for minors and enhance punishment if the minor or perceived minor is under 12 years old, the offender is a registered sex offender, or a person travels into the Commonwealth for the purpose of procuring or promoting the use of a minor.

**Senate Bill 80:** Makes amendments in KRS Chapter 15 to make changes in law relating to peace officer certification.

**Senate Bill 236:** Makes amendments to various sections of KRS Chapter 186 concerning vehicle license plates. This bill eliminates the requirement that license plates contain three letters and three numbers, but can now be a combination of letters and numbers.

**Senate Bill 267:** Creates a new offense in Ch. 525 relating to dissemination of personally identifying information.

**House Bill 105:** Amends KRS 39F.180 to require that any agency searching for a lost or missing person contact appropriate agencies within four hours of receiving the report.

**House Bill 125:** Creates a new section in KRS Chapter 186 to require the Transportation Cabinet to establish a restriction category on the motorcycle operator's license to restrict license holders to operation of 3-wheeled motorcycles only, and changes related training issues.

**House Bill 126:** Makes amendments to theft statutes to raise felony threshold to \$1,000, create a Class B misdemeanor for property valued less than \$500, and Class A misdemeanor for property valued at least \$500 but less than \$1,000.

**House Bill 155:** Amends KRS 405.075, defines a "newborn safety device," and permits parents to place a newborn infant inside a "newborn safety device" that is located at a participating staffed police station, staffed fire station, or staffed hospital.

**House Bill 229:** Amends KRS 512.010 to include livestock and poultry as property for purposes of KRS Chapter 512 offenses.

**House Bill 254:** Amends KRS 531.335 and KRS 531.340 to raise the penalties for cases involving matter portraying a sexual performance by a minor.

**House Bill 273:** Amends KRS 61.878 to exclude from Open Records Act photos or videos of a person's death, killing, rape, or sexual assault or abuse.

**House Bill 277:** Amends KRS 186.430 to exempt from KY operator's license requirement for a member of the Armed Forces, their spouse, and dependent child who hold a valid operator's license from another state when assigned to KY but maintain permanent residence elsewhere.

**House Bill 307:** Amends KRS 218A.010 to exclude certain cannabinoid products from the definition of marijuana.

**House Bill 310:** Amends KRS 439.340 to require notice and hearings prior to parole of persons convicted of a Class D felony classified as a sex crime under KRS 17.500, and amends KRS 510.037, 456.010, and 403.720 to clarify that inchoate offenses are included in the statutory offenses.

**House Bill 312:** Makes numerous amendments to the Kentucky Open Records Act.

**House Bill 389:** Amends KRS 620.140 to create procedures for informal adjustment of certain dependency, neglect and abuse cases.

**House Bill 402:** Amends KRS 530.050 by increasing the amount of qualifying for flagrant nonsupport arrearage from \$1,000 to \$2,500.

**House Bill 439:** Amends KRS 186.577 to require vision testing on an operator's license renewal, and make other amendments to statutes to conform.

**House Bill 472:** Amends KRS 500.050 to extend the statute of limitations for a misdemeanor sex offense against a minor to ten years from the current five-year statute of limitations. Bill makes other amendments relating to civil lawsuits against the offender.