

1 AN ACT relating to crimes and punishments.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section, "violent felony" means a felony that would classify a
6 person as a violent offender under Section 30 of this Act.

7 (2) Notwithstanding any other provision of this chapter, a person convicted of a
8 violent felony who has previously been convicted of two (2) separate violent
9 felonies shall be sentenced to:

10 (a) A term of imprisonment for life without benefit of probation or parole, if the
11 felony is not a capital offense; or

12 (b) Death, or a term of imprisonment for life without benefit of probation or
13 parole, if the felony is a capital offense.

14 (3) For the purpose of determining whether a person has two (2) or more separate
15 violent felony convictions, two (2) or more convictions for which the person
16 served concurrent or uninterrupted consecutive terms of imprisonment shall be
17 deemed to be only one (1) conviction, unless one (1) of the convictions was for an
18 offense committed while that person was imprisoned.

19 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO
20 READ AS FOLLOWS:

21 Notwithstanding any other provision of this chapter, or Section 30 of this Act, a person
22 shall not be eligible for probation, parole, conditional discharge, conditional release, or
23 any other form of release prior to the completion of his or her sentence if, in the
24 commission of the offense, he or she:

25 (1) Possessed a firearm and was previously convicted of a felony;

26 (2) Possessed a firearm that he or she knew or was reckless in not knowing was
27 stolen; or

1 (3) Possessed a firearm and was on probation, parole, conditional discharge,
2 conditional release, or any other form of release after conviction of an offense of
3 violence.

4 ➔Section 3. KRS 610.070 is amended to read as follows:

5 (1) All cases involving children brought before the court whose cases are under the
6 jurisdiction of the court shall be granted a speedy hearing and shall be dealt with by
7 the court without a jury.

8 (2) The hearings shall be conducted in a formal manner, unless specified to the contrary
9 by other provisions of KRS Chapters 600 to 645.

10 (3) The general public shall be excluded and only the immediate families or guardians
11 of the parties before the court, witnesses necessary for the prosecution and defense
12 of the case, the probation worker with direct interest in the case, a representative
13 from the Department of Juvenile Justice, the victim, his or her parent or legal
14 guardian, or if emancipated, his or her spouse, or a legal representative of either,
15 such persons admitted as the judge shall find have a direct interest in the case or in
16 the work of the court, and such other persons as agreed to by the child and his or
17 her attorney may be admitted to the hearing. A parent, legal guardian, or spouse if a
18 witness shall be admitted to the hearing only during and after his or her testimony
19 at the hearing, and witnesses shall be admitted to the hearing only for the duration
20 of their testimony. The court may order the exclusion of a parent, legal guardian, or
21 spouse, if it is shown to the satisfaction of the court that the parent, legal guardian,
22 or spouse may physically disrupt the proceedings or may do violence to any
23 participant therein. The mere presence of a parent, legal guardian, or spouse shall
24 not be deemed to be a disruption of the proceedings merely because their presence
25 may make the defendant uncomfortable; the court shall find a potential for actual
26 physical disruption of the proceedings before an exclusion may be granted for this
27 reason.

(4) The court ~~shall~~~~[may]~~ order at least one (1) parent, guardian, or person~~[the parents, guardians, or persons]~~ exercising custodial control over the child to be present at any hearing or other proceeding involving the child.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

(1) At any hearing or other proceeding under KRS Chapters 630 to 645, at least one (1) person ordered by the court, pursuant to subsection (4) of Section 3 of this Act, to attend hearings or proceedings involving the child shall be present.

(2) A person who has been excluded from a hearing pursuant to subsection (3) of Section 3 of this Act and has not subsequently been ordered by the court to be present at future proceedings shall not be charged under this section.

(3) If a violation of subsection (1) of this section occurs, any parent, guardian, or other person who was ordered, pursuant to subsection (4) of Section 3 of this Act, to attend hearings or proceedings involving the child shall be fined not more than five hundred dollars (\$500) and ordered to participate in up to forty (40) hours of community service.

➔Section 5. KRS 507.030 is amended to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he or she causes the death of such person or of a third person;

(b) With intent to cause the death of another person, he or she causes the death of such person or of a third person under circumstances which do not constitute murder because he or she acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020; ~~[or]~~

(c) Through circumstances not otherwise constituting the offense of murder, he or she intentionally abuses another person or knowingly permits another person of whom he or she has actual custody to be abused and thereby causes death

1 to a person twelve (12) years of age or less, or who is physically helpless or
2 mentally helpless; or

3 (d) He or she knowingly sells fentanyl or a fentanyl derivative to another
4 person, and the injection, ingestion, inhalation, or other introduction of the
5 fentanyl or fentanyl derivative causes the death of the person.

6 (2) Manslaughter in the first degree is a Class B felony.

7 ➔Section 6. KRS 507.040 is amended to read as follows:

8 (1) A person is guilty of manslaughter in the second degree when he or she wantonly
9 causes the death of another person, including but not limited to situations where the
10 death results from the person's:

11 (a) Operation of a motor vehicle;

12 (b) Leaving a child under the age of eight (8) years in a motor vehicle under
13 circumstances which manifest an extreme indifference to human life and
14 which create a grave risk of death to the child, thereby causing the death of
15 the child; ~~or~~

16 (c) Unlawful distribution for remuneration of a Schedule I or II controlled
17 substance when the controlled substance is the proximate cause of death; or

18 (d) Knowing distribution of fentanyl or a fentanyl derivative to another person
19 without remuneration, and the injection, ingestion, inhalation, or other
20 introduction of the fentanyl or fentanyl derivative causes the death of the
21 person.

22 (2) Manslaughter in the second degree is a Class C felony.

23 ➔Section 7. KRS 218A.133 is amended to read as follows:

24 (1) As used in this section:

25 (a) "Drug overdose" means an acute condition of physical illness, coma, mania,
26 hysteria, seizure, cardiac arrest, cessation of breathing, or death which
27 reasonably appears to be the result of consumption or use of a controlled

1 substance, or another substance with which a controlled substance was
2 combined, and that a layperson would reasonably believe requires medical
3 assistance; and

4 (b) "Good faith" does not include seeking medical assistance during the course of
5 the execution of an arrest warrant, or search warrant, or a lawful search.

6 (2) A person shall not be charged with or prosecuted for a criminal offense prohibiting
7 the possession of a controlled substance or the possession of drug paraphernalia, for
8 a violation of subsection (1)(d) of Section 5 of this Act, or for an offense
9 punishable under subsection (1)(d) of Section 6 of this Act or subsection (3)(c) of
10 Section 8 of this Act if:

11 (a) In good faith, medical assistance with a drug overdose is sought from a public
12 safety answering point, emergency medical services, a law enforcement
13 officer, or a health practitioner because the person:

- 14 1. Requests emergency medical assistance for himself or herself or another
15 person;
- 16 2. Acts in concert with another person who requests emergency medical
17 assistance; or
- 18 3. Appears to be in need of emergency medical assistance and is the
19 individual for whom the request was made;

20 (b) The person remains with, or is, the individual who appears to be experiencing
21 a drug overdose until the requested assistance is provided; and

22 (c) The evidence for the charge or prosecution is obtained as a result of the drug
23 overdose and the need for medical assistance.

24 (3) The provisions of subsection (2) of this section shall not extend to the investigation
25 and prosecution of any other crimes committed by a person who otherwise qualifies
26 under this section.

27 (4) When contact information is available for the person who requested emergency

1 medical assistance, it shall be reported to the local health department. Health
2 department personnel shall make contact with the person who requested emergency
3 medical assistance in order to offer referrals regarding substance abuse treatment, if
4 appropriate.

5 (5) A law enforcement officer who makes an arrest in contravention of this section
6 shall not be criminally or civilly liable for false arrest or false imprisonment if the
7 arrest was based on probable cause.

8 ➔Section 8. KRS 218A.1412 is amended to read as follows:

9 (1) A person is guilty of trafficking in a controlled substance in the first degree when
10 he or she knowingly and unlawfully traffics in:

11 (a) Four (4) grams or more of cocaine;

12 (b) Two (2) grams or more of methamphetamine;

13 (c) Ten (10) or more dosage units of a controlled substance that is classified in
14 Schedules I or II and is a narcotic drug, or a controlled substance analogue;

15 (d) Any quantity of heroin, fentanyl, carfentanil, or fentanyl derivatives; lysergic
16 acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB),
17 including its salts, isomers, salts of isomers, and analogues; or flunitrazepam,
18 including its salts, isomers, and salts of isomers; or

19 (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of
20 this subsection in an amount less than the amounts specified in those
21 paragraphs.

22 (2) The amounts specified in subsection (1) of this section may occur in a single
23 transaction or may occur in a series of transactions over a period of time not to
24 exceed ninety (90) days that cumulatively result in the quantities specified in this
25 section.

26 (3) (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of
27 this section shall be guilty of a Class C felony for the first offense and a Class

1 B felony for a second or subsequent offense.

2 (b) Any person who violates the provisions of subsection (1)(e) of this section
3 shall be guilty of a Class D felony for the first offense and a Class C felony
4 for a second or subsequent offense.

5 (c) If the substance is fentanyl or a fentanyl derivative, and the injection,
6 ingestion, inhalation, or other introduction of the fentanyl or fentanyl
7 derivative causes the death of a person, the penalty for the offense shall be
8 one (1) level higher than the level otherwise specified in this section.

9 (d) Any person convicted of a Class C felony offense or higher under this section
10 shall not be released on probation, shock probation, parole, conditional
11 discharge, or other form of early release until he or she has served at least fifty
12 percent (50%) of the sentence imposed in cases where the trafficked substance
13 was heroin, fentanyl, carfentanil, or fentanyl derivatives.

14 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 515 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) A person is guilty of carjacking when he or she takes a motor vehicle in the
17 possession of another without lawful authority or ownership, from the possessor's
18 person or immediate presence, or from the person or immediate presence of a
19 passenger of the motor vehicle, against the possessor's or passenger's will and
20 with the intent to either permanently or temporarily deprive the possessor of the
21 motor vehicle of his or her possession, accomplished by means of force or
22 intimidation.

23 (2) Carjacking is a Class B felony.

24 ➔Section 10. KRS 512.020 is amended to read as follows:

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

- 1 (a) Defaces, destroys, or damages any property causing pecuniary loss of five
2 ~~hundred dollars (\$500)~~ [one thousand dollars (\$1,000)] or more;
- 3 (b) Tamper with the operations of a key infrastructure asset, as defined in KRS
4 511.100, in a manner that renders the operations harmful or dangerous; or
- 5 (c) As a tenant, intentionally or wantonly defaces, destroys, or damages
6 residential rental property causing pecuniary loss of five hundred dollars
7 ~~(\$500)~~ [one thousand dollars (\$1,000)] or more.
- 8 (2) Criminal mischief in the first degree is a Class D felony, unless:
- 9 (a) The offense occurs during a declared emergency as defined by KRS 39A.020
10 arising from a natural or man-made disaster, within the area covered by the
11 emergency declaration, and within the area impacted by the disaster, in which
12 case it is a Class C felony;
- 13 (b) For the first offense, if the defendant at any time prior to trial effects repair
14 or replacement of the defaced, destroyed, or damaged property, makes
15 complete restitution in the amount of the damage, or performs community
16 service as required by the court, in which case it is a Class B misdemeanor.
17 The court shall determine the number of hours of community service
18 commensurate with the total amount of monetary damage caused by or
19 incidental to the commission of the crime, of not less than sixty (60) hours;
20 or
- 21 (c) For the second or subsequent offense, if the defendant at any time prior to
22 trial effects repair or replacement of the defaced, destroyed, or damaged
23 property, makes complete restitution in the amount of the damage, or
24 performs community service as required by the court, in which case it is a
25 Class A misdemeanor. The court shall determine the number of hours of
26 community service commensurate with the total amount of monetary
27 damage caused by or incidental to the commission of the crime, of not less

1 than sixty (60) hours.

2 ➔Section 11. KRS 512.030 is amended to read as follows:

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

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

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

12 (2) Criminal mischief in the second degree is a Class A misdemeanor, unless:

13 (a) The offense occurs during a declared emergency as defined by KRS 39A.020
14 arising from a natural or man-made disaster, within the area covered by the
15 emergency declaration, and within the area impacted by the disaster, in which
16 case it is a Class D felony; or

17 (b) The defendant at any time prior to trial effects repair or replacement of the
18 defaced, destroyed, or damaged property, makes complete restitution in the
19 amount of the damage, or performs community service as required by the
20 court, in which case it is a Class B misdemeanor. The court shall determine
21 the number of hours of community service commensurate with the total
22 amount of monetary damage caused by or incidental to the commission of
23 the crime, of not less than fifteen (15) hours.

24 ➔Section 12. KRS 149.410 is amended to read as follows:

25 The Commonwealth's attorney or county attorney shall initiate and prosecute appropriate
26 abatement proceedings by injunction or otherwise, for the prevention or correction of any
27 condition constituting or threatening to constitute a violation of KRS 149.360 to 149.430.

The institution or pendency of a proceeding pursuant to this section shall not bar the imposition of any penalties or the securing of any other relief provided by KRS 149.360 to 149.430, 149.991, 277.990, 512.020, or Section 11 of this Act~~[- to 512.040]~~, or administrative regulations promulgated thereunder.

➔Section 13. KRS 506.160 is amended to read as follows:

(1) If a defendant is alleged by the prosecuting attorney to have been a member of a criminal gang as defined in KRS 506.135, at the time of the commission of the offense, upon conviction of the offense there shall be a separate proceeding from that proceeding which resulted in the defendant's conviction if the defendant was convicted of:

- (a) Assault in the fourth degree under KRS 508.030;
- (b) Menacing under KRS 508.050;
- (c) Wanton endangerment in the second degree under KRS 508.070;
- (d) Terroristic threatening in the third degree under KRS 508.080;
- (e) Stalking in the second degree under KRS 508.150;
- (f) Unlawful imprisonment in the second degree under KRS 509.030;
- (g) Criminal coercion under KRS 509.080;
- (h) Criminal mischief in the second degree under KRS 512.030;
- (i) ~~Criminal mischief in the third degree under KRS 512.040;~~
- ~~(j) Obstructing governmental operations under KRS 519.020;~~
- ~~(k)~~ (j) Resisting arrest under KRS 520.090;
- ~~(l)~~ (k) Riot in the second degree under KRS 525.030;
- ~~(m)~~ (l) Inciting to riot under KRS 525.040;
- ~~(n)~~ (m) Harassment under KRS 525.070;
- ~~(o)~~ (n) Harassing communications under KRS 525.080;
- ~~(p)~~ (o) The misdemeanor offense of carrying a concealed deadly weapon in violation of KRS 527.020; or

1 ~~(p)~~~~(q)~~ Possession of a handgun by a minor as a first offense under KRS
2 527.100.

3 (2) The proceeding described in subsection (1) of this section shall be conducted before
4 the court sitting with the jury that found the defendant guilty of the offense unless
5 the court for good cause discharges that jury and impanels a new jury for that
6 purpose. If the jury determines beyond a reasonable doubt that the defendant is or
7 was a member of a criminal gang, acting for the purpose of benefitting, promoting,
8 or furthering the interest of a criminal gang at the time he or she committed the
9 offense, he or she shall not be released for a minimum of seventy-six (76) to ninety
10 (90) days of the sentence imposed if the offense he or she is convicted of is
11 classified as a Class B misdemeanor, or for a minimum of three hundred eleven
12 (311) to three hundred sixty-five (365) days if the offense he or she is convicted of
13 is classified as a Class A misdemeanor.

14 (3) This section shall not apply to a juvenile unless he or she has been transferred to
15 Circuit Court as a youthful offender pursuant to KRS 640.010 and has on at least
16 one (1) prior separate occasion been adjudicated a public offender for a felony
17 offense.

18 ➔Section 14. KRS 525.220 is amended to read as follows:

19 No person shall be convicted of assault on a service animal when **he or she has**:

20 (1) ~~He has~~ Also been convicted of a violation of KRS 525.125, 525.130, 512.020, **or**
21 512.030~~, or 512.040~~ arising out of the same incident; or

22 (2) ~~He has~~ Destroyed or treated a service animal that is injured, diseased, or suffering
23 or that constitutes a hazard to public safety if not destroyed; or

24 (3) ~~He has~~ Used physical force against the service animal in protection of himself,
25 **herself**, or a third person; or

26 (4) ~~He has~~ Used physical force without knowledge that the animal was a service
27 animal.

1 ➔Section 15. KRS 520.050 is amended to read as follows:

2 (1) A person is guilty of promoting contraband in the first degree when:

3 (a) He or she knowingly introduces dangerous contraband into a detention
4 facility or a penitentiary; or

5 (b) Being a person confined in a detention facility or a penitentiary, he or she
6 knowingly makes, obtains, or possesses dangerous contraband.

7 (2) Promoting contraband in the first degree is a Class D felony, unless the dangerous
8 contraband is fentanyl, carfentanil, or a fentanyl derivative, in which case it is a
9 Class B felony.

10 ➔Section 16. KRS 16.220 is amended to read as follows:

11 (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to
12 KRS 500.090, all firearms confiscated by the Department of Kentucky State Police
13 and not retained for official use pursuant to KRS 500.090 shall be sold at public
14 auction to:

15 (a) Federally licensed firearms dealers holding a license appropriate for the type
16 of firearm sold; or

17 (b) For a firearm which was used in a homicide, any person who certifies on a
18 form provided by the Department of Kentucky State Police prior to placing a
19 bid that he or she will, upon completion of the auction, leave the firearm
20 with the Department of Kentucky State Police for destruction. A state or
21 local government or agency thereof shall not purchase a firearm under this
22 paragraph.

23 (2) Any provision of KRS Chapter 45 or 45A relating to disposition of property to the
24 contrary notwithstanding, the Department of Kentucky State Police shall:

25 (a) Conduct any auction specified by this section;

26 (b) Retain for departmental use twenty percent (20%) of the gross proceeds from
27 any auction specified by this section; ~~and~~

1 (c) Transfer remaining proceeds of the sale to the account of the Kentucky Office
2 of Homeland Security for use as provided in subsection ~~(5)~~~~(4)~~ of this
3 section; and

4 *(d) For any sale pursuant to subsection (1)(b) of this section, destroy the*
5 *firearm.*

6 ~~(3)~~~~(2)~~ Prior to the sale of any firearm, the Department of Kentucky State Police shall
7 make an attempt to determine if the firearm to be sold has been stolen or otherwise
8 unlawfully obtained from an innocent owner and return the firearm to its lawful
9 innocent owner, unless that person is ineligible to purchase a firearm under federal
10 law.

11 ~~(4)~~~~(3)~~ The Department of Kentucky State Police shall receive firearms and
12 ammunition confiscated by or abandoned to every law enforcement agency in
13 Kentucky. The department shall dispose of the firearms received in the manner
14 specified in ~~subsections~~~~subsection~~ (1) and (2) of this section. However, firearms
15 which are not retained for official use, returned to an innocent lawful owner, or
16 transferred to another government agency or public museum shall be sold as
17 provided in subsections (1) and ~~(2)~~~~(3)~~ of this section.

18 ~~(5)~~~~(4)~~ The proceeds of firearms sales shall be utilized by the Kentucky Office of
19 Homeland Security to provide grants to city, county, charter county, unified local
20 government, urban-county government, and consolidated local government police
21 departments; university safety and security departments organized pursuant to KRS
22 164.950; school districts that employ special law enforcement officers as defined in
23 KRS 61.900; and sheriff's departments for the purchase of:

24 (a) Body armor for sworn peace officers of those departments and service
25 animals, as defined in KRS 525.010, of those departments;

26 (b) Firearms or ammunition;

27 (c) Electronic control devices, electronic control weapons, or electro-muscular

1 disruption technology; and

2 (d) Body-worn cameras.

3 In awarding grants under this section, the Kentucky Office of Homeland Security
4 shall give first priority to providing and replacing body armor and second priority to
5 providing firearms and ammunition, with residual funds available for the purchase
6 of body-worn cameras, electronic control devices, electronic control weapons, or
7 electro-muscular disruption technology. Body armor purchased by the department
8 receiving grant funds shall meet or exceed the standards issued by the National
9 Institute of Justice for body armor. No police or sheriff's department shall apply for
10 a grant to replace existing body armor unless that body armor has been in actual use
11 for a period of five (5) years or longer. Any department applying for grant funds for
12 body-worn cameras shall develop a policy for their use and shall submit that policy
13 with its application for the grant funds to the Office of Homeland Security as part of
14 the application process.

15 ~~(6)(5)~~ The Department of Kentucky State Police may transfer a machine gun, short-
16 barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any
17 other weapon, or destructive device as defined by the National Firearms Act which
18 is subject to registration under the National Firearms Act and is not properly
19 registered in the national firearms transfer records for those types of weapons, to the
20 Bureau of Alcohol, Tobacco, and Firearms of the United States Department of
21 Justice, after a reasonable attempt has been made to transfer the firearm to an
22 eligible state or local law enforcement agency or to an eligible museum and no
23 eligible recipient will take the firearm or weapon. National Firearms Act firearms
24 and weapons which are properly registered and not returned to an innocent lawful
25 owner or retained for official use as provided in this section shall be sold *in*
26 *accordance with subsections (1) and (2)*~~to properly licensed dealers under~~
27 ~~subsection (3)~~ of this section.

1 ➔ SECTION 17. A NEW SECTION OF KRS CHAPTER 511 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) For purposes of this section:

4 (a) "Camp" means to pitch, erect, or occupy camp facilities, or to use camp
5 paraphernalia;

6 (b) "Camp facilities" means structures for the use of camping, including but
7 not limited to tents, huts, temporary shelters, and vehicles; and

8 (c) "Camp paraphernalia" means items used for camping purposes, including
9 but not limited to cots, beds, sleeping bags, and hammocks.

10 (2) A person is guilty of unlawful camping when he or she knowingly enters or
11 remains on a public or private street, sidewalk, area under a bridge or underpass,
12 path, park, or other area designated for use by pedestrians or vehicles, including
13 areas used for ingress or egress to businesses, homes, or public buildings, with
14 the intent to sleep or camp in that area, when the area has not been designated
15 for the purpose of sleeping or camping or the individual lacks authorization to
16 sleep or camp in the area.

17 (3) Unlawful camping is a:

18 (a) Violation for the first offense; and

19 (b) Class B misdemeanor for the second and each subsequent offense, or if
20 during the first offense the individual refuses to cease the offense.

21 (4) Nothing in this section shall be construed to prohibit the customary and
22 temporary use of recreational camping areas, rest areas, or other properties that
23 are specifically designated for purposes of resting or sleeping.

24 (5) Nothing in this section shall prevent a person from sleeping temporarily in his or
25 her vehicle parked lawfully on a public road, street, or parking lot, where the
26 sleeping and parking of the vehicle at the location occur for a period of less than
27 twelve (12) hours.

1 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
2 TO READ AS FOLLOWS:

3 (1) Notwithstanding any statute, administrative regulation, or common law to the
4 contrary, appropriations from the general fund, any restricted fund, or the road
5 fund shall not be expended by any state or local officer, official, employee, or
6 agency for any initiatives to provide permanent housing to homeless individuals if
7 those initiatives lack behavioral and rehabilitative requirements. Behavioral and
8 rehabilitative requirements shall at a minimum include requirements that the
9 initiative facilitate appropriate treatment of any mental health conditions or
10 substance use disorders and prohibit criminal activity.

11 (2) This section shall not apply to statutorily created housing programs or to
12 domestic violence shelters as defined in KRS 511.085.

13 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
14 READ AS FOLLOWS:

15 A local government may designate indoor or outdoor areas with defined boundaries in
16 an area zoned for commercial or industrial use, separate from any area frequently
17 used for public purposes, as a temporary camping location for unsheltered homeless
18 individuals. Any such designated area shall contain potable water and adequate
19 sanitary facilities, such as portable toilets. Any individual utilizing the designated area
20 for a permissible purpose shall not be in violation of Section 17 of this Act.

21 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) A government official or governmental body shall not adopt or enforce any policy
24 under which it directly or indirectly prohibits or discourages the enforcement of
25 any law, order, or ordinance prohibiting unlawful camping as set forth in Section
26 17 of this Act.

27 (2) A government official or governmental body shall not directly or indirectly

1 prohibit or discourage a peace officer or prosecuting attorney who is employed by
2 or otherwise under its direction or control from enforcing any law, order, or
3 ordinance prohibiting unlawful camping as set forth in Section 17 of this Act.

4 (3) This section shall not be interpreted or construed to:

5 (a) Prohibit a policy that encourages diversion programs or offering of services
6 in lieu of citation or arrest;

7 (b) Prohibit or otherwise interfere with general orders or decisions that involve
8 resource allocation or prioritization made by a governmental official or
9 governmental body;

10 (c) Create any cause of action; or

11 (d) Permit a peace officer to disobey an instruction, order, or command from
12 an officer or official within his or her chain of command.

13 (4) The Attorney General may bring a civil action in any court of competent
14 jurisdiction against any government official or governmental body to enjoin it
15 from violating this section.

16 (5) The Attorney General may recover reasonable expenses incurred in any civil
17 action brought under this section, including court costs, reasonable attorney's
18 fees, investigative costs, witness fees, and deposition costs.

19 ➔Section 21. KRS 503.080 is amended to read as follows:

20 (1) The use of physical force by a defendant upon another person is justifiable when the
21 defendant believes that such force is immediately necessary to prevent:

22 (a) The commission of criminal trespass, robbery, burglary, or other felony
23 involving the use of force, or under those circumstances permitted pursuant to
24 KRS 503.055, in a dwelling, building or upon real property in his or her
25 possession or in the possession of another person for whose protection he or
26 she acts;~~[-or]~~

27 (b) Theft, criminal mischief, or any trespassory taking of tangible, movable

1 property in his or her possession or in the possession of another person for
2 whose protection he or she acts; or

3 (c) The commission of unlawful camping in violation of Section 17 of this Act,
4 when the offense is occurring on property owned or leased by the defendant,
5 the individual engaged in unlawful camping has been told to cease, and the
6 individual committing the offense has used force or threatened to use force
7 against the defendant.

8 (2) The use of deadly physical force by a defendant upon another person is justifiable
9 under subsection (1) of this section only when the defendant believes that the
10 person against whom such force is used is:

11 (a) Attempting to dispossess him or her of his or her dwelling otherwise than
12 under a claim of right to its possession; or

13 (b) Committing or attempting to commit a burglary, robbery, or other felony
14 involving the use of force, or under those circumstances permitted pursuant to
15 KRS 503.055, of such dwelling; or

16 (c) Committing or attempting to commit arson of a dwelling or other building in
17 his or her possession.

18 (3) A person does not have a duty to retreat if the person is in a place where he or she
19 has a right to be.

20 ➔Section 22. KRS 202C.050 is amended to read as follows:

21 (1) No respondent shall be involuntarily committed under this chapter unless there is a
22 determination that:

23 (a) The respondent presents a danger to self or others as a result of his or her
24 mental condition or as manifested by recent behavior causing, attempting, or
25 threatening harm;

26 (b) The respondent needs care, training, or treatment in order to mitigate or
27 prevent substantial physical harm to self or others; and

1 (c) ~~{The respondent has a demonstrated history of criminal behavior that has~~
2 ~~endangered or caused injury to others or has a substantial history of~~
3 ~~involuntary hospitalizations under KRS Chapter 202A or 202B prior to the~~
4 ~~commission of the charged crime; and~~

5 ~~(d)}~~ A less restrictive alternative mode of treatment would endanger the safety of
6 the respondent or others.

7 (2) When a respondent is involuntarily committed under this chapter, the cabinet shall
8 place that respondent in a forensic psychiatric facility designated by the secretary.

9 ➔Section 23. KRS 186.417 is amended to read as follows:

10 (1) The Transportation Cabinet shall issue to any felony offender, if the felony offender
11 is eligible, released from the Kentucky Department of Corrections, *a county jail or*
12 *other local or regional correctional facility, if and when funds are available,* or a
13 Federal Bureau of Prisons facility located in Kentucky on home incarceration,
14 parole, completed service of sentence, shock probation, or pardon, a personal
15 identification card or, if the felony offender is eligible, an operator's license. An
16 offender who wishes to obtain a personal identification card or operator's license
17 shall provide proper documentation to comply with the provisions of this section.

18 (2) Proper documentation under subsection (1) of this section shall consist of:

19 (a) The offender's certificate of birth;

20 (b) A copy of the offender's resident record card and parole certificate or notice of
21 discharge;

22 (c) A photograph of the offender, printed on plastic card or paper; and

23 (d) A release letter that shall contain the offender's:

24 1. Full legal name, subject to the information available to the Kentucky
25 Department of Corrections or a Federal Bureau of Prisons facility
26 located in Kentucky;

27 2. Discharge/release date;

- 1 3. Signature;
- 2 4. Social Security number;
- 3 5. Date of birth;
- 4 6. Present Kentucky address where he or she resides; and
- 5 7. Physical description.

6 (3) The Transportation Cabinet shall issue to any felony offender, if the felony offender
7 is eligible, probated or conditionally discharged by the court and under the
8 supervision of the Division of Probation and Parole or the United States Probation
9 Office, a personal identification card or, if the felony offender is eligible, an
10 operator's license. An offender who wishes to obtain a personal identification card
11 or operator's license shall provide proper documentation to comply with the
12 provisions of this section.

13 (4) Proper documentation under subsection (3) of this section shall consist of:

- 14 (a) The offender's certificate of birth;
- 15 (b) The offender's sentencing order;
- 16 (c) A photograph of the offender, printed on plastic card or paper; and
- 17 (d) A notarized release letter, signed by the supervising officer verifying the
18 offender's status on supervision, that shall contain the offender's:
 - 19 1. Full legal name, subject to the information available to the Division of
20 Probation and Parole or the United States Probation Office;
 - 21 2. Signature;
 - 22 3. Social Security number;
 - 23 4. Date of birth;
 - 24 5. Present Kentucky address where he or she resides; and
 - 25 6. Physical description.

26 (5) The offender shall present the documentation identified in subsection (2) or (4) of
27 this section to the cabinet within thirty (30) calendar days from the date of the

1 release letter and shall be responsible for paying the fee for the personal
2 identification card or operator's license pursuant to KRS 186.531.

3 (6) The Transportation Cabinet shall promulgate administrative regulations in
4 accordance with KRS Chapter 13A to establish procedures for current inmates in
5 state and federal prisons, who are deemed eligible by prison officials, to be issued
6 operator's licenses to engage in work release activities or reentry initiatives. The
7 administrative regulations shall address, at a minimum:

8 (a) The information required for application, which shall include all information
9 in paragraph (b) of this subsection which is germane to a current inmate. For
10 purposes of this paragraph, the facility in which the inmate is housed shall be
11 considered the inmate's residence;

12 (b) Required documentation from the Department of Corrections or the Federal
13 Bureau of Prisons that the inmate meets the security criteria to be eligible for
14 work outside of the facility;

15 (c) Procedures for license issuance; and

16 (d) Restrictions on use of the license, including a requirement that the inmate
17 shall surrender the license to prison officials when the inmate is not engaged
18 in work outside the facility.

19 (7) The cabinet shall process applications for operator's licenses and personal
20 identification cards under this section in the same manner as in KRS 186.412 and
21 186.4122.

22 (8) The Transportation Cabinet may enter into an agreement with the Kentucky
23 Department of Corrections, the United States Probation Office, or the Federal
24 Bureau of Prisons to use a mobile unit to begin the issuance process in this section.

25 ➔Section 24. KRS 431.510 is amended to read as follows:

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

27 (a) **1. "Bail bondsman" means any person, partnership, or corporation**

1 engaged for profit in the business of:

2 a. Furnishing bail, making bonds, or entering into undertakings, as
3 surety, for the appearance of persons charged with any criminal
4 offense or violation of law or ordinance punishable by fine,
5 imprisonment, or death, before any of the courts of this state; or

6 b. Securing the payment of fines imposed and of costs assessed by
7 those courts upon final disposition thereof.

8 2. The business of a bail bondsman is limited to the acts, transactions,
9 and undertakings described in this paragraph and to no other; and

10 (b) "Charitable bail organization" means an organization, including but not
11 limited to an organization exempt under Section 501(c)(3) of the Internal
12 Revenue Code, that solicits or accepts donations from the public for the
13 purpose of:

14 1. Furnishing bail, making bonds, or entering into undertakings, as
15 surety, whether through direct payment or by payment through a third
16 party, for the appearance of persons charged with any criminal
17 offense or violation of law or ordinance punishable by fine,
18 imprisonment, or death before any of the courts of this state; or

19 2. Securing the payment of fines imposed and of costs assessed by any of
20 the courts of this state upon final disposition thereof.

21 (2) It shall be unlawful for any person to engage in the business of bail bondsman~~as~~
22 ~~defined in subsection (3) of this section,~~ or to otherwise for compensation or other
23 consideration:

24 (a) Furnish bail or funds or property to serve as bail; or

25 (b) Make bonds or enter into undertakings as surety;

26 for the appearance of persons charged with any criminal offense or violation of law
27 or ordinance punishable by fine, imprisonment, or death, before any of the courts of

1 this state~~[-, including city courts]~~, or to secure the payment of fines imposed and of
2 costs assessed by such courts upon a final disposition.

3 **(3) It shall be unlawful for any charitable bail organization to:**

4 **(a) Furnish bail or funds or property to serve as bail in an amount of five**
5 **thousand dollars (\$5,000) or more; or**

6 **(b) Make bonds or enter into undertakings as surety in an amount of five**
7 **thousand dollars (\$5,000) or more;**

8 **for the appearance of persons charged with any criminal offense or violation of**
9 **law or ordinance punishable by fine, imprisonment, or death, before any of the**
10 **courts of this state, or to secure the payment of fines imposed and of costs**
11 **assessed by those courts upon a final disposition.**

12 **(4) Notwithstanding subsection (3) of this section, it shall be unlawful for any**
13 **charitable bail organization to furnish bail or funds or property to serve as bail,**
14 **or to make bonds or enter into undertakings as surety, regardless of amount, for**
15 **any person:**

16 **(a) Alleged to have committed an offense:**

17 **1. Of domestic violence and abuse as defined in KRS 403.720;**

18 **2. Of dating violence and abuse as defined in KRS 456.010; or**

19 **3. That would classify the person as a violent offender under Section 30**
20 **of this Act; or**

21 **(b) Held under a civil court order or warrant issued under KRS 222.430 to**
22 **222.437.**

23 **(5) Any person who posts bail or bond on behalf of any organization under this**
24 **section shall provide a photo identification.**

25 **(6) A charitable bail organization shall maintain and annually report the following**
26 **information to the Interim Joint Committee on Judiciary no later than October**
27 **31 of each year, and shall make publicly available on the organization's website,**

1 or by publishing in a newspaper of general circulation that complies with the
2 requirements of KRS 424.120 if the organization does not maintain a website:

3 (a) The expenditures of the organization, including a separate reporting of the
4 amount furnished for bail, or funds or property to serve as bail; and

5 (b) The number of individuals and classification of offenses for those
6 individuals for which any bail, or funds or property to serve as bail, has
7 been provided.

8 (7) Any bond posted by a charitable organization under this section that is ordered
9 forfeited as a result of the commission of a new criminal offense shall be
10 distributed to the victim of the new criminal offense, if a victim is identified.

11 (8)(2) Nothing contained in this section~~herein~~ shall serve to release any bail
12 bondsman previously~~heretofore~~ licensed by this state from the obligation of
13 undischarged bail bond liability existing on June 19, 1976.

14 ~~[(3) "Bail bondsman" shall mean any person, partnership, or corporation engaged for~~
15 ~~profit in the business of furnishing bail, making bonds or entering into~~
16 ~~undertakings, as surety, for the appearance of persons charged with any criminal~~
17 ~~offense or violation of law or ordinance punishable by fine, imprisonment, or death,~~
18 ~~before any of the courts of this state, or securing the payment of fines imposed and~~
19 ~~of costs assessed by such courts upon final disposition thereof, and the business of a~~
20 ~~bail bondsman shall be limited to the acts, transactions, and undertakings described~~
21 ~~in this subsection and to no other.]~~

22 (9)(4) KRS 431.510 to 431.550 shall not be construed to limit or repeal KRS
23 431.021 or to prevent licensed insurers providing security required by Subtitle 39 of
24 KRS Chapter 304 and nonprofit associations from posting or causing to be posted
25 by licensed insurers security or acting as surety for their insureds or members for an
26 offense arising from the operation of a motor vehicle, provided that such posting of
27 security or acting as surety is merely incidental to the terms and conditions of an

insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "first responder" means:

(a) A peace officer;

(b) Paid or volunteer emergency medical services or rescue personnel;

(c) A paid or volunteer member of an organized fire department; or

(d) Personnel of a private nonprofit organization providing fire, rescue, or emergency medical services;

engaged at the time of the act in the lawful performance of his or her duties.

(2) A person is guilty of murder of a first responder when, with the intent to cause the death of a first responder, he or she causes the death of a first responder.

(3) Notwithstanding KRS Chapter 532, murder of a first responder is a capital offense and the person shall be sentenced to death or imprisonment for life without benefit of probation or parole.

➔Section 26. KRS 506.010 is amended to read as follows:

(1) A person is guilty of criminal attempt to commit a crime when, acting with the kind of culpability otherwise required for commission of the crime, he or she:

(a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he or she believes them to be; or

(b) Intentionally does or omits to do anything which, under the circumstances as he or she believes them to be, is a substantial step in a course of conduct planned to culminate in his commission of the crime.

(2) Conduct shall not be held to constitute a substantial step under subsection (1)(b) of this section unless it is an act or omission which leaves no reasonable doubt as to the defendant's intention to commit the crime which he or she is charged with

1 attempting.

2 (3) A person is guilty of criminal attempt to commit a crime when he engages in
3 conduct intended to aid another person to commit that crime, although the crime is
4 not committed or attempted by the other person, provided that his or her conduct
5 would establish complicity under KRS 502.020 if the crime were committed by the
6 other person.

7 (4) A criminal attempt is a:

- 8 (a) Class C felony when the crime attempted is a violation of KRS 521.020 or
9 521.050;
- 10 (b) Class B felony when the crime attempted is a Class A felony or capital
11 offense;
- 12 (c) Class C felony when the crime attempted is a Class B felony;
- 13 (d) Class A misdemeanor when the crime attempted is a Class C or D felony; or
- 14 (e) Class B misdemeanor when the crime attempted is a misdemeanor.

15 (5) Notwithstanding KRS Chapter 532, a person who has been convicted of, or
16 entered a plea of guilty or nolo contendere to, criminal attempt to commit murder
17 of a first responder shall be sentenced to imprisonment for:

18 (a) At least twenty (20) years but not more than fifty (50) years;

19 (b) Life; or

20 (c) Life without benefit of probation or parole until the person has served a
21 minimum of twenty-five (25) years.

22 ➔Section 27. KRS 532.025 is amended to read as follows:

23 (1) (a) Upon conviction of a defendant in cases where the death penalty may be
24 imposed, a hearing shall be conducted. In such hearing, the judge shall hear
25 additional evidence in extenuation, mitigation, and aggravation of
26 punishment, including the record of any prior criminal convictions and pleas
27 of guilty or pleas of nolo contendere of the defendant, or the absence of any

1 prior conviction and pleas; provided, however, that only such evidence in
2 aggravation as the state has made known to the defendant prior to his or her
3 trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile
4 court records of adjudications of guilt of a child for an offense that would be a
5 felony if committed by an adult shall be admissible in court at any time the
6 child is tried as an adult, or after the child becomes an adult, at any
7 subsequent criminal trial relating to that same person. Juvenile court records
8 made available pursuant to this section may be used for impeachment
9 purposes during a criminal trial and may be used during the sentencing phase
10 of a criminal trial; however, the fact that a juvenile has been adjudicated
11 delinquent of an offense that would be a felony if the child had been an adult
12 shall not be used in finding the child to be a persistent felony offender based
13 upon that adjudication. Release of the child's treatment, medical, mental, or
14 psychological records is prohibited unless presented as evidence in Circuit
15 Court. Release of any records resulting from the child's prior abuse and
16 neglect under Title IV-E or IV-B of the Federal Social Security Act is also
17 prohibited. The judge shall also hear argument by the defendant or his or her
18 counsel and the prosecuting attorney, as provided by law, regarding the
19 punishment to be imposed. The prosecuting attorney shall open and the
20 defendant shall conclude the argument. In cases in which the death penalty
21 may be imposed, the judge when sitting without a jury shall follow the
22 additional procedure provided in subsection (2) of this section. Upon the
23 conclusion of the evidence and arguments, the judge shall impose the sentence
24 or shall recess the trial for the purpose of taking the sentence within the limits
25 prescribed by law. If the trial court is reversed on appeal because of error only
26 in the presentence hearing, the new trial which may be ordered shall apply
27 only to the issue of punishment.

1 (b) In all cases in which the death penalty may be imposed and which are tried by
2 a jury, upon a return of a verdict of guilty by the jury, the court shall resume
3 the trial and conduct a presentence hearing before the jury. Such hearing shall
4 be conducted in the same manner as presentence hearings conducted before
5 the judge as provided in paragraph (a) of this subsection, including the record
6 of any prior criminal convictions and pleas of guilty or pleas of nolo
7 contendere of the defendant. Upon the conclusion of the evidence and
8 arguments, the judge shall give the jury appropriate instructions, and the jury
9 shall retire to determine whether any mitigating or aggravating circumstances,
10 as defined in subsection (2) of this section, exist and to recommend a sentence
11 for the defendant. Upon the findings of the jury, the judge shall fix a sentence
12 within the limits prescribed by law.

13 (2) In all cases of offenses for which the death penalty may be authorized, the judge
14 shall consider, or ~~he or she shall~~ include in his or her instructions to the jury for it
15 to consider, any mitigating circumstances or aggravating circumstances otherwise
16 authorized by law and any of the following statutory aggravating or mitigating
17 circumstances which may be supported by the evidence:

18 (a) Aggravating circumstances:

- 19 1. The offense of murder or kidnapping was committed by a person with a
20 prior record of conviction for a capital offense, or the offense of murder
21 was committed by a person who has a substantial history of serious
22 assaultive criminal convictions;
- 23 2. The offense of murder or kidnapping was committed while the offender
24 was engaged in the commission of arson in the first degree, robbery in
25 the first degree, burglary in the first degree, rape in the first degree, or
26 sodomy in the first degree;
- 27 3. The offender by his or her act of murder, armed robbery, or kidnapping

- 1 knowingly created a great risk of death to more than one (1) person in a
2 public place by means of a weapon of mass destruction, weapon, or
3 other device which would normally be hazardous to the lives of more
4 than one (1) person;
- 5 4. The offender committed the offense of murder for himself, herself, or
6 another, for the purpose of receiving money or any other thing of
7 monetary value, or for other profit;
- 8 5. The offense of murder was committed by a person who was a prisoner
9 and the victim was a prison employee engaged at the time of the act in
10 the performance of his or her duties;
- 11 6. The offender's act or acts of killing were intentional and resulted in
12 multiple deaths;
- 13 7. The offender's act of killing was intentional and the victim was:
- 14 a. A state or local public official;~~[-or]~~
- 15 b. A police officer, sheriff, or deputy sheriff engaged at the time of
16 the act in the lawful performance of his or her duties;
- 17 c. A paid or volunteer emergency medical services personnel
18 certified or licensed pursuant to KRS Chapter 311A engaged at
19 the time of the act in the lawful performance of his or her duties;
20 or
- 21 d. A paid or volunteer member of an organized fire department
22 engaged at the time of the act in the lawful performance of his or
23 her duties;
- 24 8. The offender murdered the victim when an emergency protective order
25 or a domestic violence order was in effect, or when any other order
26 designed to protect the victim from the offender, such as an order issued
27 as a condition of a bond, conditional release, probation, parole, or

1 pretrial diversion, was in effect; and

2 9. The offender's act of killing was intentional and resulted in the death of
3 a child under twelve (12) years old.

4 (b) Mitigating circumstances:

5 1. The defendant has no significant history of prior criminal activity;

6 2. The capital offense was committed while the defendant was under the
7 influence of extreme mental or emotional disturbance even though the
8 influence of extreme mental or emotional disturbance is not sufficient to
9 constitute a defense to the crime;

10 3. The victim was a participant in the defendant's criminal conduct or
11 consented to the criminal act;

12 4. The capital offense was committed under circumstances which the
13 defendant believed to provide a moral justification or extenuation for his
14 or her conduct even though the circumstances which the defendant
15 believed to provide a moral justification or extenuation for his or her
16 conduct are not sufficient to constitute a defense to the crime;

17 5. The defendant was an accomplice in a capital offense committed by
18 another person and his or her participation in the capital offense was
19 relatively minor;

20 6. The defendant acted under duress or under the domination of another
21 person even though the duress or the domination of another person is not
22 sufficient to constitute a defense to the crime;

23 7. At the time of the capital offense, the capacity of the defendant to
24 appreciate the criminality of his or her conduct to the requirements of
25 law was impaired as a result of mental illness or an intellectual disability
26 or intoxication even though the impairment of the capacity of the
27 defendant to appreciate the criminality of his or her conduct or to

1 conform the conduct to the requirements of law is insufficient to
2 constitute a defense to the crime; and

3 8. The youth of the defendant at the time of the crime.

4 (3) The instructions as determined by the trial judge to be warranted by the evidence or
5 as required by KRS 532.030(4) shall be given in charge and in writing to the jury
6 for its deliberation. The jury, if its verdict be a recommendation of death, or
7 imprisonment for life without benefit of probation or parole, or imprisonment for
8 life without benefit of probation or parole until the defendant has served a minimum
9 of twenty-five (25) years of his or her sentence, shall designate in writing, signed by
10 the foreman of the jury, the aggravating circumstance or circumstances which it
11 found beyond a reasonable doubt. In nonjury cases, the judge shall make such
12 designation. In all cases unless at least one (1) of the statutory aggravating
13 circumstances enumerated in subsection (2) of this section is so found, the death
14 penalty, or imprisonment for life without benefit of probation or parole, or the
15 sentence to imprisonment for life without benefit of probation or parole until the
16 defendant has served a minimum of twenty-five (25) years of his or her sentence,
17 shall not be imposed.

18 ➔Section 28. KRS 532.036 is amended to read as follows:

19 (1) As used in this section:

20 (a) "Disabled":

- 21 1. Means a legal disability as is measured by functional inabilities; and
- 22 2. Includes inabilities caused by psychological, psychiatric, or stress-
23 related trauma, and refers to any person seventeen (17) years of age or
24 older who is unable to make informed decisions with respect to his or
25 her personal affairs to the extent that he or she lacks the capacity to
26 provide for his or her physical health and safety or the physical health
27 and safety of a minor child, including but not limited to health care,

1 food, shelter, clothing, or personal hygiene; and

2 (b) "Totally and permanently disabled":

3 1. Means the inability to do any substantial gainful activity by reason of
4 any medically determinable physical or mental impairment which can be
5 expected to result in death or which has lasted or can be expected to last
6 for a continuous period of not less than twelve (12) months; and

7 2. Includes a finding of permanent total disability by the Social Security
8 Administration that a person is disabled and qualifies for benefits or a
9 finding by an administrative law judge under KRS Chapter 342.

10 (2) (a) Notwithstanding any law to the contrary, if a defendant is convicted of a
11 violation of KRS 189A.010 or Section 25 of this Act and the violation caused
12 the death of a parent or guardian of a minor child or dependent or resulted in a
13 finding by the court that a parent or guardian of a minor child or dependent is
14 disabled or totally and permanently disabled, then the sentencing court may
15 order the defendant to pay restitution in the form of financial support for the
16 child or dependent to each child or dependent of the victim until the child or
17 dependent reaches:

18 1. Eighteen (18) years of age; or

19 2. Nineteen (19) years of age if the child or dependent is still enrolled in
20 high school.

21 (b) In determining an amount that is reasonable and necessary for the financial
22 support of the victim's child or dependent, the court shall consider all relevant
23 factors, including the:

24 1. Financial needs and resources of the child or dependent;

25 2. Financial resources and needs of the surviving parent or guardian of the
26 child or dependent;

27 3. Standard of living to which the child or dependent is accustomed;

1 4. Physical and emotional condition of the child or dependent and the
2 child's or dependent's educational needs;

3 5. Child's or dependent's physical and legal custody arrangements; and

4 6. Reasonable child care expenses of the surviving parent or guardian.

5 (3) The court shall order that payments made to financially support the child or
6 dependent be made to the clerk of court as trustee for remittance to the child or
7 dependent's surviving parent or guardian. The clerk shall remit the payments to the
8 surviving parent or guardian within three (3) working days of receipt by the clerk.
9 The clerk shall deposit all payments no later than the next working day after receipt.

10 (4) If a defendant who is ordered to pay restitution in the form of financial support for
11 the child or dependent under this section is incarcerated and unable to pay the
12 required restitution, the defendant shall have up to one (1) year after the release
13 from incarceration to begin payment, including entering into a payment plan to
14 address any arrearage.

15 (5) If a defendant's payments to financially support the child or dependent are set to
16 terminate but the defendant's obligation is not paid in full, the payments to
17 financially support the child or dependent shall continue until the entire arrearage is
18 paid.

19 (6) (a) If the surviving parent or guardian of the child or dependent brings a civil
20 action against the defendant before the sentencing court orders restitution to
21 financially support the child or dependent and the surviving parent or
22 guardian obtains a judgment and full satisfaction of damages in the civil suit,
23 restitution shall not be ordered under this section.

24 (b) If the court orders the defendant to pay restitution to financially support the
25 child or dependent under this section and the surviving parent or guardian
26 subsequently brings a civil action and obtains a judgment, the restitution order
27 shall be offset by the amount of the judgment awarded and paid by the

1 defendant or the defendant's insurance for lost wages or permanent
2 impairment of the power to work and earn money in the civil action.

3 ➔Section 29. KRS 433.236 is amended to read as follows:

4 (1) A peace officer, security agent of a mercantile establishment, merchant, or
5 merchant's employee who has probable cause to believe~~[for believing]~~ that goods
6 held for sale by the merchant have been unlawfully taken by a person may take the
7 person into custody and detain him or her in a reasonable manner for a reasonable
8 length of time, on the premises of the mercantile establishment or off the premises
9 of the mercantile establishment, if the persons enumerated in this section are in
10 fresh pursuit, for any~~[or all]~~ of the following purposes:

11 (a) To request identification;

12 (b) To verify such identification;

13 (c) To make reasonable inquiry as to whether such person has in his or her
14 possession unpurchased merchandise, and to make reasonable investigation of
15 the ownership of such merchandise;

16 (d) To recover or attempt to recover goods taken from the mercantile
17 establishment by such person, or by others accompanying him or her; or

18 (e) To inform a peace officer or law enforcement agency of the detention of the
19 person and to surrender the person to the custody of a peace officer, and in the
20 case of a minor, to inform the parents, guardian, or other person having
21 custody of that minor of his or her detention, in addition to surrendering the
22 minor to the custody of a peace officer.

23 (2) Any person exercising any authority granted in subsection (1) of this section may
24 use a reasonable amount of force necessary to protect himself or herself and to
25 prevent the escape of the person detained or the loss of goods for sale.

26 (3) The recovery of goods taken from the mercantile establishment by the person
27 detained or by others shall not limit the right of the persons named in subsection (1)

1 of this section to detain such person for peace officers or otherwise accomplish the
2 purposes of subsection (1) of this section.

3 ~~(4)(3)~~ Any person enumerated in subsection (1) of this section shall be immune
4 from criminal liability and shall only be subject to civil liability for failing to
5 exercise reasonable care for any authority granted under this section.

6 (5) Any peace officer may arrest without warrant any person he or she has probable
7 cause to believe~~[for believing]~~ has committed larceny in retail or wholesale
8 establishments.

9 ➔Section 30. KRS 439.3401 is amended to read as follows:

10 (1) As used in this section, "violent offender" means any person who has been
11 convicted of or pled guilty to the commission or attempted commission of:

12 (a) A capital offense;

13 (b) A Class A felony;

14 (c) A ~~Class B~~ felony involving the death of the victim or serious physical injury
15 to a victim;

16 ~~(d) [An offense described in KRS 507.040 or 507.050 where the offense involves~~
17 ~~the killing of a peace officer, firefighter, or emergency medical services~~
18 ~~personnel while the peace officer, firefighter, or emergency medical services~~
19 ~~personnel was acting in the line of duty;~~

20 ~~(e) A Class B felony involving criminal attempt to commit murder under KRS~~
21 ~~506.010 if the victim of the offense is a clearly identifiable peace officer,~~
22 ~~firefighter, or emergency medical services personnel acting in the line of duty,~~
23 ~~regardless of whether an injury results;~~

24 ~~(f) The commission or attempted commission of]A felony sexual offense~~
25 ~~described in KRS Chapter 510;~~

26 ~~(e)(g)~~ Use of a minor in a sexual performance as described in KRS 531.310;

27 ~~(f)(h)~~ Promoting a sexual performance by a minor as described in KRS

- 1 531.320;
- 2 ~~(g)~~~~(i)~~ Unlawful transaction with a minor in the first degree as described in
- 3 KRS 530.064(1)(a);
- 4 ~~(h)~~~~(j)~~ Human trafficking under KRS 529.100 involving commercial sexual
- 5 activity where the victim is a minor;
- 6 ~~(i)~~~~(k)~~ Criminal abuse in the first degree as described in KRS 508.100;
- 7 ~~(j)~~~~(l)~~ Burglary in the first degree accompanied by the commission or
- 8 attempted commission of an assault as described in KRS 508.010, 508.020,
- 9 508.032, or 508.060;
- 10 ~~(k)~~~~(m)~~ Burglary in the first degree accompanied by commission or attempted
- 11 commission of kidnapping as described in~~[prohibited by]~~ KRS 509.040;
- 12 (l) Burglary in the first degree as described in KRS 511.020, if a person other
- 13 than a participant in the crime was present in the building during the
- 14 commission of the offense;
- 15 ~~(m)~~~~(n)~~ Robbery in the first degree as described in KRS 515.020;~~[or]~~
- 16 ~~(n)~~~~(o)~~ Robbery in the second degree as described in KRS 515.030;
- 17 (o) Incest as described in KRS 530.020(2)(b) or (c);
- 18 (p) Arson in the first degree as described in KRS 513.020;
- 19 (q) Strangulation in the first degree as described in KRS 508.170;
- 20 (r) Carjacking as described in Section 9 of this Act;
- 21 (s) A Class B felony violation of promoting contraband in the first degree as
- 22 described in Section 15 of this Act; or
- 23 (t) Wanton endangerment in the first degree as described in Section 38 of this
- 24 Act involving the discharge of a firearm.
- 25 (2) The court shall designate in its judgment if:
- 26 (a) The victim suffered death or serious physical injury; and
- 27 (b) A person other than a participant in the crime was present in the building

1 during the commission of burglary in the first degree.

2 ~~(3)~~~~(2)~~ A violent offender who has been convicted of a capital offense and who has
3 received a life sentence ~~{(and has not been sentenced to twenty-five (25) years~~
4 without parole or imprisonment for life without benefit of probation or parole~~}}~~, or
5 a Class A felony and receives a life sentence, or to death and his or her sentence is
6 commuted to a life sentence shall not be released on probation or parole until he or
7 she has served at least twenty (20) years in the penitentiary. Violent offenders may
8 have a greater minimum parole eligibility date than other offenders who receive
9 longer sentences, including a sentence of life imprisonment.

10 ~~(4)~~~~(3)~~ ~~{(a) }A violent offender {who has been convicted of a capital offense or~~
11 ~~Class A felony }~~with a sentence of a term of years ~~{or Class B felony }~~shall not be
12 released on probation, shock probation, ~~{or }~~parole, conditional discharge, or other
13 form of early release until he or she has served at least eighty-five percent (85%)
14 of the sentence imposed.

15 ~~{(b) }A violent offender who has been convicted of a violation of KRS 507.040~~
16 ~~where the victim of the offense was clearly identifiable as a peace officer, a~~
17 ~~firefighter, or emergency medical services personnel, and the victim was~~
18 ~~acting in the line of duty shall not be released on probation or parole until he~~
19 ~~or she has served at least eighty five percent (85%) of the sentence imposed.~~

20 ~~(c) }A violent offender who has been convicted of a violation of KRS 507.040 or~~
21 ~~507.050 where the victim of the offense was a peace officer, a firefighter, or~~
22 ~~emergency medical services personnel, and the victim was acting in the line~~
23 ~~of duty shall not be released on probation or parole until he or she has served~~
24 ~~at least fifty percent (50%) of the sentence imposed.~~

25 ~~(d) }Any offender who has been convicted of a homicide or fetal homicide offense~~
26 ~~under KRS Chapter 507 or 507A in which the victim of the offense died as~~
27 ~~the result of an overdose of a Schedule I controlled substance and who is not~~

1 otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be
2 released on probation, shock probation, parole, conditional discharge, or other
3 form of early release until he or she has served at least fifty percent (50%) of
4 the sentence imposed.]

5 ~~(5)~~~~(4)~~ A violent offender shall only~~[not]~~ be awarded ~~[any]~~ credit on his or her
6 sentence authorized by KRS 197.045(1)~~(a)1.~~~~(b)1.~~ In no event shall a violent
7 offender be given credit on his or her sentence if the credit reduces the term of
8 imprisonment to less than eighty five percent (85%) of the sentence.]

9 ~~(6)~~~~(5)~~ This section shall not apply to a person who has been determined by a court to
10 have been a victim of domestic violence or abuse pursuant to KRS 533.060 with
11 regard to the offenses involving the death of the victim or serious physical injury to
12 the victim. The provisions of this subsection shall not extend to rape in the first
13 degree or sodomy in the first degree by the defendant.

14 ~~(7)~~~~(6)~~ This section shall apply only to those persons who commit offenses after July
15 15, 1998.

16 ~~(8)~~~~(7)~~ For offenses committed prior to July 15, 1998, the version of this statute in
17 effect immediately prior to that date shall continue to apply.

18 ~~(9)~~~~(8)~~ The provisions of subsection (1) of this section extending the definition of
19 "violent offender" to persons convicted of or pleading guilty to robbery in the first
20 degree shall apply only to persons whose crime was committed after July 15, 2002.

21 ➔Section 31. KRS 525.045 is amended to read as follows:

22 (1) A person is guilty of the separate offense of terrorism if conviction of the
23 underlying offense committed would classify the person as a violent offender under
24 KRS 439.3401(1)(a), (b), or (c)~~[, or (d)]~~, or the underlying offense was an offense
25 under KRS 527.200, 527.205, or 527.210 and the person had the intent to:

26 (a) Intimidate the civilian population at large, or an identifiable group of the
27 civilian population; or

1 (b) Influence, through intimidation, the conduct or activities of the government of
2 the United States, the Commonwealth, any other state, or any unit of local
3 government.

4 (2) A conviction of terrorism shall be punishable by a term of imprisonment for life
5 without benefit of probation or parole. An offense under this section is a separate
6 offense from the underlying offense and shall not merge with other offenses.

7 (3) A person convicted under this section shall not be released on probation, shock
8 probation, parole, conditional discharge, or any other form of conditional release.

9 (4) (a) All real and personal property used or intended for use in the course of,
10 derived from, or realized through an offense punishable pursuant to this
11 section shall be subject to lawful seizure and forfeiture to the Commonwealth
12 as set forth in KRS 218A.405 to 218A.460, except that any property seized
13 and forfeited to the Commonwealth under this section that was used in an act
14 of terror, as defined in KRS 411.025, shall be held for at least five (5) years
15 for the purposes of paying any damages awarded under KRS 411.025.

16 (b) Notwithstanding paragraph (a) of this subsection, any real or personal
17 property:

18 1. Taken by a lender in good faith as collateral for the extension of credit
19 and recorded as provided by law;

20 2. Of an owner who made a bona fide purchase of the property; or

21 3. Of a person with rightful possession of the property;

22 shall not be subject to forfeiture unless the lender, owner, or person had
23 knowledge of an offense under this section.

24 (5) Damages awarded pursuant to a successful claim under KRS 411.025 may be paid
25 by property lawfully seized and forfeited under this section.

26 ➔Section 32. KRS 508.075 is amended to read as follows:

27 (1) A person is guilty of terroristic threatening in the first degree when he or she:

- 1 (a) Intentionally makes false statements that he or she or another person has
2 placed a weapon of mass destruction on:
- 3 1. The real property or any building of any public or private elementary or
4 secondary school, vocational school, or institution of postsecondary
5 education;
 - 6 2. A school bus or other vehicle owned, operated, or leased by a school;
 - 7 3. The real property or any building public or private that is the site of an
8 official school-sanctioned function;
 - 9 4. The real property or any building owned or leased by a government
10 agency;~~[-or]~~
 - 11 5. The real property or any building owned or leased by a domestic
12 violence shelter as defined in KRS 511.085;~~[-or]~~
 - 13 6. Any workplace; or
 - 14 7. The real property or any building public or private that is the site of
15 any gathering of three (3) or more persons; or
- 16 (b) Intentionally and without lawful authority, places a counterfeit weapon of
17 mass destruction at any location or on any object specified in paragraph (a) of
18 this subsection.
- 19 (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is
20 placed, with the written permission of the chief officer of the school or other
21 institution, as a part of an official training exercise and is placed by a public
22 servant, as defined in KRS 522.010.
- 23 (3) A person is not guilty of commission of an offense under this section if he or she,
24 innocently and believing the information to be true, communicates a threat made by
25 another person to school personnel, domestic violence shelter personnel, a peace
26 officer, a law enforcement agency, a public agency involved in emergency
27 response, or a public safety answering point and identifies the person from whom

1 the threat was communicated, if known.

2 (4) Terroristic threatening in the first degree is a Class C felony.

3 ➔Section 33. KRS 508.078 is amended to read as follows:

4 (1) A person is guilty of terroristic threatening in the second degree when, other than as
5 provided in KRS 508.075, he or she intentionally:

6 (a) With respect to any scheduled, publicly advertised event open to the public,
7 any place of worship,~~[-or]~~ any school function, any workplace, or any
8 gathering of three (3) or more persons, threatens to commit by any means,
9 including by use of a firearm, any act likely to result in death or serious
10 physical injury to any person~~[at a scheduled, publicly advertised event open~~
11 ~~to the public, any person at a place of worship, or any student group, teacher,~~
12 ~~volunteer worker, or employee of a public or private elementary or secondary~~
13 ~~school, vocational school, or institution of postsecondary education, or to any~~
14 ~~other person reasonably expected to lawfully be on school property or at a~~
15 ~~school-sanctioned activity, if the threat is related to their employment by a~~
16 ~~school, or work or attendance at school, or a school function]. A threat~~
17 directed at a person or persons at a scheduled, publicly advertised event open
18 to the public, place of worship,~~[-or]~~ school, workplace, or gathering of three
19 (3) or more persons does not need to identify a specific person or persons or
20 school in order for a violation of this section to occur;

21 (b) Makes false statements by any means, including by electronic
22 communication, indicating that an act likely to result in death or serious
23 physical injury is occurring or will occur for the purpose of:

- 24 1. Causing evacuation of a school building, school property, or school-
25 sanctioned activity;
- 26 2. Causing cancellation of school classes or school-sanctioned activity; or
- 27 3. Creating fear of death or serious physical injury among students,

1 parents, or school personnel;

2 (c) Makes false statements that he or she has placed a weapon of mass destruction
3 at any location other than one specified in KRS 508.075; or

4 (d) Without lawful authority places a counterfeit weapon of mass destruction at
5 any location other than one specified in KRS 508.075.

6 (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is
7 placed as part of an official training exercise by a public servant, as defined in KRS
8 522.010.

9 (3) A person is not guilty of commission of an offense under this section if he or she,
10 innocently and believing the information to be true, communicates a threat made by
11 another person to school personnel, a peace officer, a law enforcement agency, a
12 public agency involved in emergency response, or a public safety answering point
13 and identifies the person from whom the threat was communicated, if known.

14 (4) Except as provided in subsection (5) of this section, terroristic threatening in the
15 second degree is a Class D felony.

16 (5) Terroristic threatening in the second degree is a Class C felony when, in addition to
17 violating subsection (1) of this section, the person intentionally engages in
18 substantial conduct required to prepare for or carry out the threatened act, including
19 but not limited to gathering weapons, ammunition, body armor, vehicles, or
20 materials required to manufacture a weapon of mass destruction.

21 ➔Section 34. KRS 158.155 is amended to read as follows:

22 (1) Any school employee who knows or has reasonable cause to believe that a person
23 has made threats or plans of violence which are intended to target a school or
24 students or who knows that a firearm is present on school property in violation of
25 KRS 527.070 shall immediately cause a report to be made pursuant to subsection
26 (10) of this section.

27 (2) Any school employee shall immediately report pursuant to subsection (10) of this

1 section any act which the employee has a reasonable cause to believe has
2 occurred on school property or at a school-sponsored or sanctioned event
3 involving:

4 (a) Assault resulting in serious physical injury;

5 (b) A sexual offense;

6 (c) Kidnapping;

7 (d) Assault with the use of a weapon;

8 (e) Possession of a firearm or deadly weapon in violation of the law;

9 (f) The use, possession, or sale of a controlled substance in violation of the
10 law; or

11 (g) Damage to property.

12 (3) Any school employee who receives information from a student or other person of
13 conduct which is required to be reported under subsection (1) or (2) of this
14 section shall report the conduct pursuant to subsection (10) of this section.

15 (4) If a student has been adjudicated guilty of an offense specified in this subsection or
16 has been expelled from school for an offense specified in this subsection, prior to a
17 student's admission to any school, the parent, guardian, principal, or other person or
18 agency responsible for a student shall provide to the school a sworn statement or
19 affirmation indicating on a form provided by the Kentucky Board of Education that
20 the student has been adjudicated guilty or expelled from school attendance at a
21 public or private school in this state or another state for homicide, assault, or an
22 offense in violation of state law or school regulations relating to weapons, alcohol,
23 or drugs. The sworn statement or affirmation shall be sent to the receiving school
24 within five (5) working days of the time when the student requests enrollment in the
25 new school.

26 ~~(5)(2)~~ If any student who has been expelled from attendance at a public or private
27 school in this state for homicide, assault, or an offense in violation of state law or

1 school regulations relating to weapons, alcohol, or drugs requests transfer of his
2 records, those records shall reflect the charges and final disposition of the expulsion
3 proceedings.

4 ~~(6)~~~~[(3)]~~ If any student who is subject to an expulsion proceeding at a public or private
5 school in this state for homicide, assault, or an offense in violation of state law or
6 school regulations relating to weapons, alcohol, or drugs requests transfer of his
7 records to a new school, the records shall not be transferred until that proceeding
8 has been terminated and shall reflect the charges and any final disposition of the
9 expulsion proceedings.

10 ~~[(4)] A person who is an administrator, teacher, or other employee of a public or private~~
11 ~~school shall promptly make a report to the local police department, sheriff, or the~~
12 ~~Department of Kentucky State Police, by telephone or otherwise, if:~~

13 ~~(a) The person knows or has reasonable cause to believe that conduct has~~
14 ~~occurred which constitutes:~~

15 ~~1. A misdemeanor or violation offense under the laws of this~~
16 ~~Commonwealth and relates to:~~

17 ~~a. Carrying, possession, or use of a deadly weapon; or~~

18 ~~b. Use, possession, or sale of controlled substances; or~~

19 ~~2. Any felony offense under the laws of this Commonwealth; and~~

20 ~~(b) The conduct occurred on the school premises or within one thousand (1,000)~~
21 ~~feet of school premises, on a school bus, or at a school sponsored or~~
22 ~~sanctioned event.~~

23 ~~(5) A person who is an administrator, teacher, supervisor, or other employee of a public~~
24 ~~or private school who receives information from a student or other person of~~
25 ~~conduct which is required to be reported under subsection (1) of this section shall~~
26 ~~report the conduct in the same manner as required by that subsection.]~~

27 ~~(7)~~~~[(6)]~~ Neither the husband-wife privilege of KRE 504 nor any professional-client

1 privilege, including those set forth in KRE 506 and 507, shall be a ground for
2 refusing to make a report required under this section or for excluding evidence in a
3 judicial proceeding of the making of a report and of the conduct giving rise to the
4 making of a report. However, the attorney-client privilege of KRE 503 and the
5 religious privilege of KRE 505 are grounds for refusing to make a report or for
6 excluding evidence as to the report and the underlying conduct.

7 ~~(8)(7)~~ Nothing in this section shall be construed as to require self-incrimination.

8 ~~(9)(8)~~ A person acting upon reasonable cause in the making of a report under this
9 section in good faith shall be immune from any civil or criminal liability that might
10 otherwise be incurred or imposed from:

11 (a) Making the report; and

12 (b) Participating in any judicial proceeding that resulted from the report.

13 **(10) Notice required pursuant to this section shall be given to any law enforcement**
14 **agency created by the local board of education, and to:**

15 **(a) A local law enforcement agency not created by the local board of education;**

16 **or**

17 **(b) The Department of Kentucky State Police.**

18 ➔Section 35. KRS 158.148 is amended to read as follows:

19 (1) (a) As used in this section, "bullying" means any unwanted verbal, physical, or
20 social behavior among students that involves a real or perceived power
21 imbalance and is repeated or has the potential to be repeated:

22 1. That occurs on school premises, on school-sponsored transportation, or
23 at a school-sponsored event; or

24 2. That disrupts the education process.

25 (b) This definition shall not be interpreted to prohibit civil exchange of opinions
26 or debate or cultural practices protected under the state or federal Constitution
27 where the opinion expressed does not otherwise materially or substantially

1 disrupt the education process.

2 (2) In cooperation with the Kentucky Education Association, the Kentucky School
3 Boards Association, the Kentucky Association of School Administrators, the
4 Kentucky Association of Professional Educators, the Kentucky Association of
5 School Superintendents, the Parent-Teachers Association, the Kentucky Chamber
6 of Commerce, the Farm Bureau, members of the Interim Joint Committee on
7 Education, and other interested groups, and in collaboration with the Center for
8 School Safety, the Department of Education shall develop or update as needed and
9 distribute to all districts by August 31 of each even-numbered year, beginning
10 August 31, 2008:

11 (a) Statewide student discipline guidelines to ensure safe schools, including the
12 definition of serious incident for the reporting purposes as identified in KRS
13 158.444;

14 (b) Recommendations designed to improve the learning environment and school
15 climate, parental and community involvement in the schools, and student
16 achievement; and

17 (c) A model policy to implement the provisions of this section and KRS 158.156,
18 158.444, 525.070, and 525.080.

19 (3) The department shall obtain statewide data on major discipline problems and
20 reasons why students drop out of school. In addition, the department, in
21 collaboration with the Center for School Safety, shall identify successful strategies
22 currently being used in programs in Kentucky and in other states and shall
23 incorporate those strategies into the statewide guidelines and the recommendations
24 under subsection (2) of this section.

25 (4) Copies of the discipline guidelines shall be distributed to all school districts. The
26 statewide guidelines shall contain broad principles and legal requirements to guide
27 local districts in developing their own discipline code and school councils in the

1 selection of discipline and classroom management techniques under KRS
2 158.155~~[158.154]~~; and in the development of the district-wide safety plan.

3 (5) (a) Each local board of education shall be responsible for formulating a code of
4 acceptable behavior and discipline to apply to the students in each school
5 operated by the board. The code shall be updated no less frequently than every
6 two (2) years, with the first update being completed by November 30, 2008.

7 (b) The superintendent, or designee, shall be responsible for overall
8 implementation and supervision, and each school principal shall be
9 responsible for administration and implementation within each school. Each
10 school council shall select and implement the appropriate discipline and
11 classroom management techniques necessary to carry out the code. The board
12 shall establish a process for a two-way communication system for teachers
13 and other employees to notify a principal, supervisor, or other administrator of
14 an existing emergency.

15 (c) The code shall prohibit bullying.

16 (d) The code shall contain the type of behavior expected from each student, the
17 consequences of failure to obey the standards, and the importance of the
18 standards to the maintenance of a safe learning environment where orderly
19 learning is possible and encouraged.

20 (e) The code shall contain:

- 21 1. Procedures for identifying, documenting, and reporting incidents of
22 bullying, incidents of violations of the code, and incidents for which
23 reporting is required under KRS 158.156;
- 24 2. Procedures for investigating and responding to a complaint or a report of
25 bullying or a violation of the code, or of an incident for which reporting
26 is required under KRS 158.156, including reporting incidents to the
27 parents, legal guardians, or other persons exercising custodial control or

- 1 supervision of the students involved;
- 2 3. A strategy or method of protecting from retaliation a complainant or
- 3 person reporting an incident of bullying, a violation of the code, or an
- 4 incident for which reporting is required under KRS 158.156;
- 5 4. A process for informing students, parents, legal guardians, or other
- 6 persons exercising custodial control or supervision, and school
- 7 employees of the requirements of the code and the provisions of this
- 8 section and KRS 158.156, 158.444, 525.070, and 525.080, including
- 9 training for school employees; and
- 10 5. Information regarding the consequences of bullying and violating the
- 11 code and violations reportable under KRS 158.155~~[158.154]~~, 158.156,
- 12 or 158.444.
- 13 (f) The principal of each school shall apply the code of behavior and discipline
- 14 uniformly and fairly to each student at the school without partiality or
- 15 discrimination.
- 16 (g) A copy of the code of behavior and discipline adopted by the board of
- 17 education shall be posted at each school. Guidance counselors shall be
- 18 provided copies for discussion with students. The code shall be referenced in
- 19 all school handbooks. All school employees and parents, legal guardians, or
- 20 other persons exercising custodial control or supervision shall be provided
- 21 copies of the code.
- 22 ➔Section 36. KRS 506.040 is amended to read as follows:
- 23 (1) A person having the intention of promoting or facilitating the commission of a
- 24 crime is guilty of criminal conspiracy when he:
- 25 (a) Agrees with one (1) or more persons that at least one (1) of them will engage
- 26 in conduct constituting that crime or an attempt or solicitation to commit such
- 27 a crime; or

1 (b) Agrees to aid one or more persons in the planning or commission of that
2 crime or an attempt or solicitation to commit such a crime.

3 (2) Except as provided in subsection (3) of this section, or in a specific statute to the
4 contrary, a criminal conspiracy is a:

5 (a) Class C felony when the conspiratorial agreement is a violation of KRS
6 521.020 or 521.050;

7 (b) Class B felony when the object of the conspiratorial agreement is a Class A
8 felony or capital offense;

9 (c) Class C felony when the object of the conspiratorial agreement is a Class B
10 felony;

11 (d) Class A misdemeanor when the object of the conspiratorial agreement is a
12 Class C or D felony;

13 (e) Class B misdemeanor when the object of the conspiratorial agreement is a
14 misdemeanor.

15 (3) Any person who is eighteen (18) years of age or older who engages in a criminal
16 conspiracy with a minor shall be charged one (1) level higher than the level
17 provided for the offense which is the object of the conspiratorial agreement.

18 ➔Section 37. KRS 218A.1402 is amended to read as follows:

19 Except as provided in subsection (3) of Section 36 of this Act, any person who commits
20 a criminal conspiracy as defined in KRS 506.040 to commit any offense in this chapter
21 shall be subject to the same penalties as provided for the underlying offense as specified
22 in this chapter.

23 ➔Section 38. KRS 508.060 is amended to read as follows:

24 (1) A person is guilty of wanton endangerment in the first degree when, under
25 circumstances manifesting extreme indifference to the value of human life, he or
26 she wantonly engages in conduct which creates a substantial danger of death or
27 serious physical injury to another person.

1 (2) Wanton endangerment in the first degree is a Class D felony, unless the person
2 discharges a firearm in the commission of the offense, in which case it is a Class
3 C felony.

4 ➔Section 39. KRS 524.040 is amended to read as follows:

5 (1) A person is guilty of intimidating a participant in the legal process when, by use of
6 harassing communications as described in KRS 525.080, physical force, or a
7 threat directed to a person he or she believes to be a participant in the legal process,
8 he or she:

- 9 (a) Influences, or attempts to influence, the testimony, vote, decision, or opinion
10 of that person;
- 11 (b) Induces, or attempts to induce, that person to avoid legal process summoning
12 him or her to testify;
- 13 (c) Induces, or attempts to induce, that person to absent himself or herself from
14 an official proceeding to which he has been legally summoned;
- 15 (d) Induces, or attempts to induce, that person to withhold a record, document, or
16 other object from an official proceeding;
- 17 (e) Induces, or attempts to induce, that person to alter, destroy, mutilate, or
18 conceal an object with intent to impair the object's integrity or availability for
19 use in an official proceeding; or
- 20 (f) Hinders, delays, or prevents the communication to a law enforcement officer
21 or judge of information relating to the possible commission of an offense or a
22 violation of conditions of probation, parole or release pending judicial
23 proceedings.

24 (2) For purposes of this section:

- 25 (a) An official proceeding need not be pending or about to be instituted at the
26 time of the offense; and
- 27 (b) The testimony, record, document, or other object need not be admissible in

1 evidence or free of a claim of privilege.

2 (3) Intimidating a participant in the legal process is a Class D felony.

3 (4) In order for a person to be convicted of a violation of this section, the act against a
4 participant in the legal process or the immediate family of a participant in the legal
5 process shall be related to the performance of a duty or role played by the
6 participant in the legal process.

7 ➔Section 40. KRS 439.340 is amended to read as follows:

8 (1) The board may release on parole persons confined in any adult state penal or
9 correctional institution of Kentucky or sentenced felons incarcerated in county jails
10 eligible for parole. All paroles shall issue upon order of the board duly adopted. As
11 soon as practicable after his or her admission to an adult state penal or correctional
12 institution or county jail if he or she is a sentenced felon, and at such intervals
13 thereafter as it may determine, the Department of Corrections shall obtain all
14 pertinent information regarding each prisoner, except those not eligible for parole.
15 The information shall include the results of his or her most recent risk and needs
16 assessment, his or her criminal record, his or her conduct, employment, and the
17 reports of physical and mental examinations that have been made. The Department
18 of Corrections shall furnish the circumstances of his or her offense, the results of
19 his or her most recent risk and needs assessment, and his or her previous social
20 history to the board. The Department of Corrections shall prepare a report on any
21 information it obtains. It shall be the duty of the Department of Corrections to
22 supplement this report with any material the board may request and submit the
23 report to the board.

24 (2) Before granting the parole of any prisoner, the board shall consider the pertinent
25 information regarding the prisoner, including the results of his or her most recent
26 risk and needs assessment, and shall have him or her appear before it for interview
27 and hearing. The board in its discretion may hold interviews and hearings for

1 prisoners convicted of Class C felonies not included within the definition of
2 "violent offender" in KRS 439.3401 and Class D felonies not included within the
3 definition of "sex crime" in KRS 17.500. The board in its discretion may request the
4 parole board of another state confining prisoners pursuant to KRS 196.610 to
5 interview eligible prisoners and make a parole recommendation to the board. A
6 parole shall be ordered only for the best interest of society and not as an award of
7 clemency, and it shall not be considered a reduction of sentence or pardon. A
8 prisoner shall be placed on parole only when arrangements have been made for his
9 or her proper employment or for his or her maintenance and care, and when the
10 board believes he or she is able and willing to fulfill the obligations of a law abiding
11 citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when
12 a prisoner is otherwise eligible for parole and the board has recommended parole
13 for that prisoner for the reasons set forth in this subsection, the board may grant
14 parole to any prisoner wanted as a fugitive by any other jurisdiction, and the
15 prisoner shall be released to the detainer from that jurisdiction. Such parole shall
16 not constitute a relinquishment of jurisdiction over the prisoner, and the board in all
17 cases expressly reserves the right to return the prisoner to confinement in a
18 correctional institution of the Commonwealth if the prisoner violates the terms of
19 his or her parole.

20 (3) (a) A nonviolent offender convicted of a Class D felony with an aggregate
21 sentence of one (1) to five (5) years who is confined to a state penal institution
22 or county jail shall have his or her case reviewed by the Parole Board after
23 serving fifteen percent (15%) or two (2) months of the original sentence,
24 whichever is longer.

25 (b) Except as provided in this section, the board shall adopt administrative
26 regulations with respect to the eligibility of prisoners for parole, the conduct
27 of parole and parole revocation hearings and all other matters that come

1 before it, or conditions to be imposed upon parolees. Regulations governing
2 the eligibility of prisoners for parole shall be in accordance with
3 professionally accepted ideas of correction and reform and may utilize in part
4 objective, performance-based criteria and risk and needs assessment
5 information; however, nothing herein contained shall preclude the board from
6 utilizing its present regulations in conjunction with other factors involved that
7 would relate to the inmate's needs and the safety of the public.

8 (4) The board shall ~~ensure~~^{insure} that all sentenced felons who have longer than
9 ninety (90) days to serve in state penal institutions, halfway houses, reentry centers,
10 and county jails are considered for parole not less than sixty (60) days prior to their
11 parole eligibility date, and the Department of Corrections shall provide the
12 necessary assistance and information to the board in order for it to conduct timely
13 parole reviews.

14 (5) In addition to or in conjunction with each hearing conducted under subsection (2) of
15 this section for any prisoner convicted of a Class A, B, or C felony or a Class D
16 felony included within the definition of "sex crime" in KRS 17.500 and prior to the
17 granting of a parole to any such prisoner, the Parole Board shall conduct a hearing
18 of which the following persons shall receive not less than forty-five (45) nor more
19 than ninety (90) days' notice: the Commonwealth's attorney who shall notify the
20 sheriff of every county and the chief of police of every city and county in which the
21 prisoner committed any Class A, B, or C felony or a Class D felony included within
22 the definition of "sex crime" in KRS 17.500 for which he or she is imprisoned, and
23 all identified victims of the crimes or the next of kin of any victim who is deceased.
24 Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at
25 the discretion of the board, and shall be in a manner that ensures receipt at the
26 Commonwealth's~~Commonwealth~~ attorney's business office. Notices received by
27 chiefs of police and sheriffs shall be posted in a conspicuous location where police

1 employed by the department may see it. Notices shall be posted in a manner and at
2 a time that will allow officers to make comment thereon to the Parole Board. Notice
3 to victims or their next of kin shall be made, for prisoners incarcerated prior to July
4 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall
5 be in a manner that ensures receipt by the Commonwealth's attorney, who shall
6 forward the notice promptly to the victims or their next of kin at their last known
7 address. For prisoners incarcerated on or after July 15, 1986, notice to the victims
8 or their next of kin shall be by mail from the Parole Board to their last known
9 address as provided by the Commonwealth's attorney to the Parole Board at the
10 time of incarceration of the prisoner. For prisoners incarcerated prior to April 1,
11 2021, for a Class D felony included within the definition of "sex crime" in KRS
12 17.500, notice to the victims or their next of kin shall be in a manner that ensures
13 receipt by the Commonwealth's attorney, who shall forward the notice promptly to
14 the victims or their next of kin at their last known address. For prisoners
15 incarcerated on or after April 1, 2021, for a Class D felony included within the
16 definition of "sex crime" in KRS 17.500, notice to the victims or their next of kin
17 shall be by mail from the Parole Board to their last known address as provided by
18 the Commonwealth's attorney to the Parole Board at the time of incarceration of the
19 prisoner. Notice to the victim or the next of kin of subsequent considerations for
20 parole after the initial consideration shall not be sent if the victim or the next of kin
21 gives notice to the board that he or she no longer wants to receive such notices. The
22 notice shall include the time, date, and place of the hearing provided for in this
23 subsection, and the name and address of a person to write if the recipient of the
24 notice desires to attend the hearing or to submit written comments.

25 (6) Persons receiving notice as provided for in subsection (5) of this section may
26 submit comments, in person or in writing, to the board upon all issues relating to
27 the parole of the prisoner. The board shall read and consider all comments prior to

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

17 (7) Victims of Class D felonies not included within the definition of "sex crime" in
18 KRS 17.500 may submit comments in person or in writing to the board upon all
19 issues relating to the parole of a prisoner.

20 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be
21 open to the public unless the persons having a right to appear before the board as
22 specified in those subsections request closure of hearing for reasons of personal
23 safety, in which event the hearing shall be closed. The time, date, and location of
24 closed hearings shall not be disclosed to the public.

25 (9) Except as specifically set forth in this section, nothing in this section shall be
26 deemed to expand or abridge any existing rights of persons to contact and
27 communicate with the Parole Board or any of its members, agents, or employees.

- 1 (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its
2 members, agents, or employees or by a Commonwealth's attorney or any of his or
3 her agents or employees to comply with any of the provisions of subsections (5),
4 (6), and (8) of this section shall not affect the validity of any parole decision or give
5 rise to any right or cause of action by the crime victim, the prisoner, or any other
6 person.
- 7 (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be
8 granted parole unless he or she has successfully completed the Sexual Offender
9 Treatment Program.
- 10 (12) Any prisoner who is granted parole after completion of the Sexual Offender
11 Treatment Program shall be required, as a condition of his or her parole, to
12 participate in regular treatment in a mental health program approved or operated by
13 the Department of Corrections.
- 14 (13) When the board grants parole contingent upon completion of a program, the
15 commissioner, or his or her designee, shall determine the most appropriate
16 placement in a program operated by the department or a residential or
17 nonresidential program within the community approved by the department. If the
18 department releases a parolee to a nonresidential program, the department shall
19 release the parolee only if he or she will have appropriate community housing
20 pursuant to KRS 439.3408.
- 21 (14) If the Parole Board does not grant parole to a prisoner, the maximum deferment for
22 a prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be
23 twenty-four (24) months. For all other prisoners who are eligible for parole:
- 24 (a) No parole deferment greater than five (5) years shall be ordered unless
25 approved by a majority vote of the full board; and
- 26 (b) No deferment shall exceed ten (10) years, except for life sentences.
- 27 (15) When an order for parole is issued, it shall recite the conditions thereof, which may

1 *include requiring the person to participate in a specific program designed to*
2 *reduce violence.*

3 ➔Section 41. KRS 533.030 is amended to read as follows:

4 (1) The conditions of probation and conditional discharge shall be such as the court, in
5 its discretion, deems reasonably necessary to ensure that the defendant will lead a
6 law-abiding life or to assist him or her to do so. The court shall provide as an
7 explicit condition of every sentence to probation or conditional discharge that the
8 defendant not commit another offense during the period for which the sentence
9 remains subject to revocation.

10 (2) When imposing a sentence of probation or conditional discharge, the court may, in
11 addition to any other reasonable condition, require that the defendant:

- 12 (a) Avoid injurious or vicious habits;
- 13 (b) Avoid persons or places of disreputable or harmful character;
- 14 (c) Work faithfully at suitable employment as far as possible;
- 15 (d) Undergo available medical or psychiatric treatment and remain in a specific
16 institution as required for that purpose;
- 17 (e) Post a bond, without surety, conditioned on performance of any of the
18 prescribed conditions;
- 19 (f) Support his or her dependents and meet other family responsibilities;
- 20 (g) Pay the cost of the proceeding as set by the court;
- 21 (h) Remain within a specified area;
- 22 (i) Report to the probation officer as directed;
- 23 (j) Permit the probation officer to visit him or her at his or her home or
24 elsewhere;
- 25 (k) Answer all reasonable inquiries by the probation officer and promptly notify
26 the probation officer of any change in address or employment;
- 27 (l) Submit to periodic testing for the use of controlled substances or alcohol, if

1 the defendant's record indicates a controlled substance or alcohol problem,
2 and to pay a reasonable fee, as determined by the court, which fee shall not
3 exceed the actual cost of the test and analysis and shall be paid directly to the
4 agency or agencies responsible for testing and analysis as compensation for
5 the cost of the testing and analysis, as specified by written order of the court,
6 performed under this subsection. For good cause shown, the testing fee may
7 be waived by the court;

8 (m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs
9 associated with the device, including administrative and operating costs, shall
10 be paid by the defendant. If the court determines that the defendant is
11 indigent, and a person, county, or other organization has not agreed to pay the
12 costs for the defendant in an attempt to reduce incarceration expenses and
13 increase public safety, the court shall consider other conditions of probation or
14 conditional discharge provided for in this section;~~[- or]~~

15 (n) During all or part of the period of probation or conditional discharge,
16 participate in a global positioning monitoring system program operated by a
17 county pursuant to KRS 67.372 and 67.374 under the same terms and
18 conditions as provided in KRS 431.517;or

19 (o) Participate in a specific program designed to reduce violence.

20 (3) When imposing a sentence of probation or conditional discharge in a case where a
21 victim of a crime has suffered monetary damage as a result of the crime due to his
22 or her property having been converted, stolen, or unlawfully obtained, or its value
23 substantially decreased as a result of the crime, or where the victim suffered actual
24 medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of
25 the crime, or where the victim incurred expenses in relocating for the purpose of the
26 victim's safety or the safety of a member of the victim's household, or if as a direct
27 result of the crime the victim incurred medical expenses that were paid by the

1 Cabinet for Health and Family Services, the Crime Victims Compensation Board,
2 or any other governmental entity, the court shall order the defendant to make
3 restitution in addition to any other penalty provided for the commission of the
4 offense. Payment of restitution to the victim shall have priority over payment of
5 restitution to any government agency. Restitution shall be ordered in the full
6 amount of the damages, unless the damages exceed one hundred thousand dollars
7 (\$100,000) or twice the amount of the gain from the commission of the offense,
8 whichever is greater, in which case the higher of these two (2) amounts shall be
9 awarded. The court may, in lieu of ordering monetary restitution, order the
10 defendant to make restitution by working for or on behalf of the victim. The court
11 shall determine the number of hours of work necessary by applying the then-
12 prevailing federal minimum wage to the total amount of monetary damage caused
13 by or incidental to the commission of the crime. The court may, with the consent of
14 the agency, order the defendant to work as specified in KRS 533.070. Any work
15 ordered pursuant to this section shall not be deemed employment for any purpose,
16 nor shall the person performing the work be deemed an employee for any purpose.
17 Where there is more than one (1) defendant or more than one (1) victim, restitution
18 may be apportioned. Restitution shall be subject to the following additional terms
19 and conditions:

- 20 (a) Where property which is unlawfully in the possession of the defendant is in
21 substantially undamaged condition from its condition at the time of the taking,
22 return of the property shall be ordered in lieu of monetary restitution;
- 23 (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray
24 the administrative costs of collection of payments or property. This fee shall
25 be paid by the defendant and shall inure to a trust and agency account which
26 shall not lapse and which shall be used to hire additional deputy clerks and
27 office personnel or increase deputy clerk or office personnel salaries, or

1 combination thereof;

2 (c) When a defendant fails to make restitution ordered to be paid through the
3 circuit clerk or a court-authorized program run by the county attorney or the
4 Commonwealth's attorney, the circuit clerk or court-authorized program shall
5 notify the court; and

6 (d) An order of restitution shall not preclude the owner of property or the victim
7 who suffered personal physical or mental injury or out-of-pocket loss of
8 earnings or support or other damages from proceeding in a civil action to
9 recover damages from the defendant. A civil verdict shall be reduced by the
10 amount paid under the criminal restitution order.

11 (4) When requiring fees for controlled substances or alcohol tests, or other fees and
12 payments authorized by this section or other statute, except restitution, to be paid by
13 the defendant, the court shall not order the payments to be paid through the circuit
14 clerk.

15 (5) When a defendant is sentenced to probation or conditional discharge, he or she shall
16 be given a written statement explicitly setting forth the conditions under which he
17 or she is being released.

18 (6) When imposing a sentence of probation or conditional discharge, the court, in
19 addition to conditions imposed under this section, may require as a condition of the
20 sentence that the defendant submit to a period of imprisonment in the county jail or
21 to a period of home incarceration at whatever time or intervals, consecutive or
22 nonconsecutive, the court shall determine. The time actually spent in confinement
23 or home incarceration pursuant to this provision shall not exceed twelve (12)
24 months or the maximum term of imprisonment assessed pursuant to KRS Chapter
25 532, whichever is the shorter. Time spent in confinement or home incarceration
26 under this subsection shall be credited against the maximum term of imprisonment
27 assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional

1 discharge is revoked and the defendant is sentenced to imprisonment. Any
2 prohibitions against probation, shock probation, or conditional discharge under
3 KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor
4 or Class D felony and sentenced to a period of confinement or home incarceration
5 under this section.

6 ➔Section 42. KRS 403.763 is amended to read as follows:

7 (1) Violation of the terms or conditions of an order of protection after the person has
8 been served or given notice of the order shall constitute contempt of court and a
9 criminal offense under this section. Once a criminal or contempt proceeding has
10 been initiated, the other shall not be undertaken regardless of the outcome of the
11 original proceeding.

12 (2) (a) Court proceedings for contempt of court for violation of an order of protection
13 shall be held in the county where the order was issued or filed.

14 (b) Court proceedings for a criminal violation of an order of protection shall
15 follow the rules of venue applicable to criminal cases generally.

16 (3) Nothing in this section shall preclude the Commonwealth from prosecuting and
17 convicting the respondent of criminal offenses other than violation of an order of
18 protection.

19 (4) (a) A person is guilty of a violation of an order of protection when he or she
20 intentionally violates the provisions of an order of protection after the person
21 has been served or given notice of the order.

22 (b) Except as provided in paragraph (c) of this subsection, a violation of an
23 order of protection is a Class A misdemeanor.

24 (c) 1. A second or subsequent violation of an order of protection which:

25 a. Occurs within five (5) years; and

26 b. Is an intentional, in-person violation;

27 is a Class D felony.

1 2. The victim in the second or subsequent violation is not required to be
2 the same person who was the victim in one (1) or more of the prior
3 violations in order for this paragraph to apply.

4 3. In determining the five (5) year period under this paragraph, the
5 period shall be measured from the dates on which the violations
6 occurred for which the judgments of conviction were entered by a
7 court of competent jurisdiction.

8 ➔Section 43. KRS 456.180 is amended to read as follows:

9 (1) Violation of the terms or conditions of an order of protection after the person has
10 been served or given notice of the order shall constitute contempt of court and a
11 criminal offense under this section. Once a criminal or contempt proceeding has
12 been initiated, the other shall not be undertaken regardless of the outcome of the
13 original proceeding.

14 (2) (a) Court proceedings for contempt of court for violation of an order of protection
15 shall be held in the county where the order was issued or filed.

16 (b) Court proceedings for a criminal violation of an order of protection shall
17 follow the rules of venue applicable to criminal cases generally.

18 (3) Nothing in this section shall preclude the Commonwealth from prosecuting and
19 convicting the respondent of criminal offenses other than violation of an order of
20 protection.

21 (4) (a) A person is guilty of a violation of an order of protection when he or she
22 intentionally violates the provisions of an interpersonal protective order after
23 the person has been served or given notice of the order.

24 (b) Except as provided in paragraph (c) of this subsection, a violation of an
25 order of protection is a Class A misdemeanor.

26 (c) 1. A second or subsequent violation of an order of protection which:
27 a. Occurs within five (5) years; and

1 **b. Is an intentional, in-person violation;**
2 **is a Class D felony.**

3 **2. The victim in the second or subsequent violation is not required to be**
4 **the same person who was the victim in one (1) or more of the prior**
5 **violations in order for this paragraph to apply.**

6 **3. In determining the five (5) year period under this paragraph, the**
7 **period shall be measured from the dates on which the violations**
8 **occurred for which the judgments of conviction were entered by a**
9 **court of competent jurisdiction.**

10 ➔Section 44. KRS 500.080 is amended to read as follows:

11 As used in the Kentucky Penal Code, unless the context otherwise requires:

12 (1) "Actor" means any natural person and, where relevant, a corporation or an
13 unincorporated association;

14 (2) "Crime" means a misdemeanor or a felony;

15 (3) "Dangerous instrument" means any instrument, including parts of the human body
16 when a serious physical injury is a direct result of the use of that part of the human
17 body, article, or substance which, under the circumstances in which it is used,
18 attempted to be used, or threatened to be used, is readily capable of causing death or
19 serious physical injury. "Dangerous instrument" may include a laser;

20 (4) "Deadly weapon" means any of the following:

21 (a) A weapon of mass destruction;

22 (b) Any weapon from which a shot, readily capable of producing death or other
23 serious physical injury, may be discharged;

24 (c) Any knife other than an ordinary pocket knife or hunting knife;

25 (d) Billy, nightstick, or club;

26 (e) Blackjack or slapjack;

27 (f) Nunchaku karate sticks;

- 1 (g) Shuriken or death star; or
- 2 (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- 3 (5) "Felony" means an offense for which a sentence to a term of imprisonment of at
- 4 least one (1) year in the custody of the Department of Corrections may be imposed;
- 5 (6) "Government" means the United States, any state, county, municipality, or other
- 6 political unit, or any department, agency, or subdivision of any of the foregoing, or
- 7 any corporation or other association carrying out the functions of government;
- 8 (7) "He" means any natural person and, where relevant, a corporation or an
- 9 unincorporated association;
- 10 (8) "Impacted by the disaster" means the location or in reasonable proximity to the
- 11 location where a natural or man-made disaster has caused physical injury, serious
- 12 physical injury, death, or substantial damage to property or infrastructure;
- 13 (9) "Laser" means any device designed or used to amplify electromagnetic radiation by
- 14 stimulated emission that emits a beam, other than a medical laser when used in
- 15 medical treatment or surgery;
- 16 (10) "Law" includes statutes, ordinances, and properly adopted regulatory provisions.
- 17 Unless the context otherwise clearly requires, "law" also includes the common law;
- 18 (11) "Minor" means any person who has not reached the age of majority as defined in
- 19 KRS 2.015;
- 20 (12) "Misdemeanor" means an offense, other than a traffic infraction, for which a
- 21 sentence to a term of imprisonment of not more than twelve (12) months can be
- 22 imposed;
- 23 (13) "Natural or man-made disaster" means a tornado, storm, or other severe weather,
- 24 earthquake, flood, or fire that poses a significant threat to human health and safety,
- 25 property, or critical infrastructure;
- 26 (14) "Offense" means conduct for which a sentence to a term of imprisonment or to a
- 27 fine is provided by any law of this state or by any law, local law, or ordinance of a

1 political subdivision of this state or by any law, order, rule, or regulation of any
2 governmental instrumentality authorized by law to adopt the same;

3 (15) "Person" means a human being, and where appropriate, a public or private
4 corporation, an unincorporated association, a partnership, a government, or a
5 governmental authority;

6 (16) "Physical injury" means substantial physical pain or any impairment of physical
7 condition;

8 (17) "Possession" means to have actual physical possession or otherwise to exercise
9 actual dominion or control over a tangible object;

10 (18) "Serious physical injury" means physical injury which creates a substantial risk of
11 death, or which causes serious and prolonged disfigurement, prolonged impairment
12 of health, prolonged loss or impairment of the function of any bodily organ, or eye
13 damage or visual impairment. For a child twelve (12) years of age or less at the
14 time of the injury, or for any person if the relationship between the perpetrator
15 and the victim meets the definition of a family member or member of an
16 unmarried couple, as defined in KRS 403.720, or a dating relationship, as defined
17 in KRS 456.010, a serious physical injury includes but is not limited to the
18 following:

19 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the
20 kidneys;

21 (b) Any bruising severe enough to cause underlying muscle damage as
22 determined by elevated creatine kinase levels in the blood;

23 (c) Any bruising or soft tissue injury to the genitals that affects the ability to
24 urinate or defecate;

25 (d) Any testicular injury sufficient to put fertility at risk;

26 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;

27 (f) Any burn deep enough to leave scarring or dysfunction of the body;

- 1 (g) Any burn requiring hospitalization, debridement in the operating room, IV
2 fluids, intubation, or admission to a hospital's intensive care unit;
- 3 (h) Rib fracture;
- 4 (i) Scapula or sternum fractures;
- 5 (j) Any broken bone that requires surgery;
- 6 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain
7 injury;
- 8 (l) A concussion that results in the child becoming limp, unresponsive, or results
9 in seizure activity;
- 10 (m) Abdominal injuries that indicate internal organ damage regardless of whether
11 surgery is required;
- 12 (n) Any injury requiring surgery;
- 13 (o) Any injury that requires a blood transfusion; and
- 14 (p) Any injury requiring admission to a hospital's critical care unit;
- 15 (19) "Unlawful" means contrary to law or, where the context so requires, not permitted
16 by law. It does not mean wrongful or immoral;
- 17 (20) "Violation" means an offense, other than a traffic infraction, for which a sentence to
18 a fine only can be imposed; and
- 19 (21) "Weapon of mass destruction" means:
- 20 (a) Any destructive device as defined in KRS 237.030, but not fireworks as
21 defined in KRS 227.700;
- 22 (b) Any weapon that is designed or intended to cause death or serious physical
23 injury through the release, dissemination, or impact of toxic or poisonous
24 chemicals or their precursors;
- 25 (c) Any weapon involving a disease organism; or
- 26 (d) Any weapon that is designed to release radiation or radioactivity at a level
27 dangerous to human life.

1 ➔Section 45. KRS 514.020 is amended to read as follows:

- 2 (1) It is a defense to prosecution for theft that the actor:
- 3 (a) Was unaware that the property or service was that of another; or
- 4 (b) Acted under a claim of right to the property or service involved or a claim that
- 5 he or she had a right to acquire or dispose of it as he or she did; or
- 6 (c) Took property exposed for sale, intending to purchase and pay for it promptly,
- 7 or reasonably believing that the owner, if present, would have consented.
- 8 (2) It is no defense that theft was from the actor's spouse, except that misappropriation
- 9 of household and personal effects or other property normally accessible to both
- 10 spouses is theft only if it involves the property of the other spouse and only if it
- 11 occurs after the parties have ceased living together.
- 12 (3) It shall be prima facie evidence of intent to commit theft by deception when one
- 13 who has leased or rented the personal property of another fails to return the personal
- 14 property to its owner within four (4)~~ten (10)~~ days after the lease or rental
- 15 agreement has expired. It shall also be prima facie evidence of intent to commit
- 16 theft by deception when one presents to the owner identification which is false,
- 17 fictitious or not current as to name, address, place of employment or other items of
- 18 identification for the purpose of obtaining the lease or rental agreement. Nothing
- 19 herein contained shall relieve the owner from making demand for return of property
- 20 so leased or rented. Notice addressed and mailed to the lessee or renter at the
- 21 address given at the time of the making of the lease or rental agreement shall
- 22 constitute proper demand.

23 ➔Section 46. KRS 196.031 is amended to read as follows:

- 24 (1) The cabinet shall employ the personnel and operate and maintain data collection
- 25 and processing systems necessary to comply with the provisions of this section.
- 26 (2) The cabinet shall annually on July 1 of each year report to the Governor, the
- 27 Legislative Research Commission, and the Kentucky State Corrections Commission

1 on:

- 2 (a) The placement of prisoners within the Commonwealth's correctional system
3 by institution, whether imprisoned in a state prison or other institution,
4 including county jails, on probation, paroled, housed in halfway houses,
5 housed in reentry centers, sentenced to community service or otherwise;
- 6 (b) Numbers of prisoners by type of offense;
- 7 (c) Numbers of prisoners by number and type of prior convictions;
- 8 (d) Numbers of prisoners paroled by type of offense and by length of time served;
- 9 (e) Numbers of prisoners released through shock probation by type of offense and
10 by length of time served;
- 11 (f) Numbers of prisoners serving their full sentence by type of offense;
- 12 (g) The percentage of felony offenders on parole or some form of post-release
13 supervision who are participating or completing treatment consistent with
14 assessment results, in prison and in the community;
- 15 (h) The percentage of felony offenders whose reassessment results demonstrate
16 reductions in criminal risk factors;
- 17 (i) The percentage of programs that demonstrate their effectiveness in reducing
18 recidivism;
- 19 (j) The percentage of felony offenders on parole or some form of post-release
20 supervision, by supervision type, who:
- 21 1. Are employed or in school within thirty (30) days, six (6) months, and
22 one (1) year of the start of supervision;
- 23 2. Have had part-time employment for a minimum of six (6) months, and
24 the percentage of offenders who have had full-time employment for a
25 minimum of six (6) months;
- 26 3. Have housing upon release from incarceration;
- 27 4. Had stable housing for at least six (6) months; and

1 5. Are arrested, convicted, or incarcerated within six (6) months, one (1)
2 year, and three (3) years;

3 (k) The percentage of admissions to prison by offenders under supervision at the
4 time of admission, including information regarding whether the violations
5 were criminal or technical;

6 (l) The percentage of offenders participating in each reentry program operated
7 by, or operated under contract with, the department who commit a new
8 criminal offense within two (2) years of their release from custody; and

9 ~~(m)(1)~~ Any other data that provides information on state-funded crime
10 reduction and recidivism reduction efforts, including caseload sizes by risk
11 level, participation in treatment and intervention programming, public safety
12 outcomes, and cost effectiveness.

13 (3) The cabinet shall annually report to the Governor and to the Legislative Research
14 Commission on:

15 (a) Numbers and types of prison beds necessary to meet current population needs
16 and six (6) year projections of those needs;

17 (b) Current personnel needs of the cabinet and five (5) year projections of the
18 needs; and

19 (c) A six (6) year projection of needed capital construction, program
20 development, and anticipated requests for appropriations.

21 ➔Section 47. KRS 520.095 is amended to read as follows:

22 (1) A person is guilty of fleeing or evading police in the first degree:

23 (a) When, while operating a motor vehicle with intent to elude or flee, the person
24 knowingly or wantonly disobeys a direction to stop his or her motor vehicle,
25 given by a person recognized to be a police officer, and at least one (1) of the
26 following conditions exists:

27 1. The person is fleeing immediately after committing an act of domestic

- 1 violence as defined in KRS 403.720;
- 2 2. The person is driving under the influence of alcohol or any other
- 3 substance or combination of substances in violation of KRS 189A.010;
- 4 3. The person is driving while his or her driver's license is suspended for
- 5 violating KRS 189A.010; or
- 6 4. By fleeing or eluding, the person is the cause, or creates substantial risk,
- 7 of serious physical injury or death to any person or property; or
- 8 (b) When, as a pedestrian, and with intent to elude or flee, the person knowingly
- 9 or wantonly disobeys an order to stop, given by a person recognized to be a
- 10 peace officer, and at least one (1) of the following conditions exists:
- 11 1. The person is fleeing immediately after committing an act of domestic
- 12 violence as defined in KRS 403.720; or
- 13 2. By fleeing or eluding, the person is the cause of, ~~or creates a substantial~~
- 14 ~~risk of,~~ serious physical injury or death to any person or property.
- 15 (2) Fleeing or evading police in the first degree is a *Class C*~~[Class D]~~ felony *and the*
- 16 *defendant shall not be released on probation, shock probation, conditional*
- 17 *discharge, or parole until he or she has served at least fifty percent (50%) of the*
- 18 *sentence imposed.*
- 19 ➔Section 48. KRS 520.100 is amended to read as follows:
- 20 (1) A person is guilty of fleeing or evading police in the second degree when:
- 21 (a) As a pedestrian, and with intent to elude or flee~~[,]~~ the person knowingly or
- 22 wantonly disobeys a direction to stop~~[,]~~ given by a person recognized to be a
- 23 peace officer who has an articulable reasonable suspicion that a crime has
- 24 been committed by the person fleeing, and in fleeing or eluding the person is
- 25 the cause of, ~~or creates a substantial risk of,~~ physical injury to any person; or
- 26 (b) While operating a motor vehicle with intent to elude or flee, the person
- 27 knowingly or wantonly disobeys a recognized direction to stop his *or her*

1 vehicle, given by a person recognized to be a peace officer.

2 (2) No offense is committed under this section when the conduct involved constitutes a
3 failure to comply with a directive of a traffic control officer.

4 (3) Fleeing or evading police in the second degree is a *Class D felony*~~[Class A~~
5 ~~misdemeanor]~~ *and the defendant shall not be released on probation, shock*
6 *probation, conditional discharge, or parole until he or she has served at least fifty*
7 *percent (50%) of the sentence imposed.*

8 ➔SECTION 49. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO
9 READ AS FOLLOWS:

10 *(1) A person is guilty of fleeing or evading police in the third degree when, as a*
11 *pedestrian and with intent to elude or flee, the person knowingly or wantonly*
12 *disobeys a direction to stop given by a person recognized to be a peace officer,*
13 *and in fleeing or eluding the person creates a substantial risk of physical injury*
14 *to any person.*

15 *(2) No offense is committed under this section when the conduct involved constitutes*
16 *a failure to comply with a directive of a traffic control officer.*

17 *(3) Fleeing or evading police in the third degree is a Class A misdemeanor.*

18 ➔Section 50. KRS 532.110 is amended to read as follows:

19 (1) When multiple sentences of imprisonment are imposed on a defendant for more
20 than one (1) crime, including a crime for which a previous sentence of probation or
21 conditional discharge has been revoked, the multiple sentences shall run
22 concurrently or consecutively as the court shall determine at the time of sentence,
23 except that:

24 (a) A definite and an indeterminate term shall run concurrently and both
25 sentences shall be satisfied by service of the indeterminate term;

26 (b) The aggregate of consecutive definite terms shall not exceed one (1) year;

27 (c) *1. Except as provided in paragraph (d) of this subsection,* the aggregate

1 of consecutive indeterminate terms shall not exceed in maximum length
2 the longest extended term which would be authorized by KRS 532.080
3 for the highest class of crime for which any of the sentences is imposed.

4 2. In no event shall the aggregate of consecutive indeterminate terms
5 exceed seventy (70) years; and

6 (d) The sentences of a defendant convicted of two (2) or more felony sex crimes,
7 as defined in KRS 17.500, involving two (2) or more victims shall run
8 consecutively.

9 (2) If the court does not specify the manner in which a sentence imposed by it is to run,
10 the sentence shall run concurrently with any other sentence which the defendant
11 must serve unless the sentence is required by subsection (3) of this section or KRS
12 533.060 to run consecutively.

13 (3) Notwithstanding any provision in this section to the contrary, if a person is
14 convicted of an offense that is committed while he is imprisoned in a penal or
15 reformatory institution, during an escape from imprisonment, or while he awaits
16 imprisonment, the sentence imposed for that offense may be added to the portion of
17 the term which remained unserved at the time of the commission of the offense.
18 The sentence imposed upon any person convicted of an escape or attempted escape
19 offense shall run consecutively with any other sentence which the defendant must
20 serve.

21 (4) Notwithstanding any provision in this chapter to the contrary, if a person is
22 convicted of an offense that is committed while he is imprisoned in a penal or
23 reformatory institution, the sentence imposed for that offense may, upon order of
24 the trial court, be served in that institution. The person may be transferred to
25 another institution pursuant to administrative regulations of the Department of
26 Corrections.

27 ➔Section 51. KRS 514.030 is amended to read as follows:

- 1 (1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by
2 unlawful taking or disposition when he or she unlawfully:
- 3 (a) Takes or exercises control over movable property of another with intent to
4 deprive him or her thereof; or
- 5 (b) Obtains immovable property of another or any interest therein with intent to
6 benefit himself or herself or another not entitled thereto.
- 7 (2) Theft by unlawful taking or disposition is a Class B misdemeanor unless:
- 8 (a) The property is a firearm (regardless of the value of the firearm), in which
9 case it is a Class D felony;
- 10 (b) The property is anhydrous ammonia (regardless of the value of the ammonia),
11 in which case it is a Class D felony unless it is proven that the person violated
12 this section with the intent to manufacture methamphetamine in violation of
13 KRS 218A.1432, in which case it is a Class B felony for the first offense and
14 a Class A felony for each subsequent offense;
- 15 (c) The property is one (1) or more controlled substances valued collectively at
16 less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
- 17 (d) The value of the property is five hundred dollars (\$500) or more but less than
18 one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
- 19 (e) The value of the property is one thousand dollars (\$1,000) or more but less
20 than ten thousand dollars (\$10,000), in which case it is a Class D felony;
- 21 (f) The person has three (3) or more convictions under paragraph (d) of this
22 subsection within the last five (5) years, in which case it is a Class D felony.
23 The five (5) year period shall be measured from the dates on which the
24 offenses occurred for which the judgments of conviction were entered;
- 25 (g) The value of the property is ten thousand dollars (\$10,000) or more but less
26 than one million dollars (\$1,000,000), in which case it is a Class C felony;
- 27 (h) The value of the property is one million dollars (\$1,000,000) or more but less

- 1 than ten million dollars (\$10,000,000), in which case it is a Class B felony;
- 2 (i) The value of the property is ten million dollars (\$10,000,000) or more, in
- 3 which case it is a Class B felony; or
- 4 (j) The offense occurs during a declared emergency as defined by KRS 39A.020
- 5 arising from a natural or man-made disaster, within the area covered by the
- 6 emergency declaration, and within the area impacted by the disaster, in which
- 7 case the person shall be charged one (1) level higher than the level otherwise
- 8 specified in this subsection.

9 (3) Any person convicted under subsection (2)(i) of this section shall not be released on

10 probation or parole until he or she has served at least fifty percent (50%) of the

11 sentence imposed, any statute to the contrary notwithstanding.

12 (4) If any person commits two (2) or more separate offenses of theft by unlawful taking

13 or disposition within one (1) year~~ninety (90) days~~, the offenses may be combined

14 and treated as a single offense, and the value of the property in each offense may be

15 aggregated for the purpose of determining the appropriate charge. Offenses

16 committed in different jurisdictions within the Commonwealth may be combined

17 pursuant to this subsection and tried in any jurisdiction in which venue would be

18 proper for at least one (1) of the offenses.

19 ➔Section 52. If any provision of this Act or the application thereof to any person

20 or circumstance is held invalid, the invalidity shall not affect other provisions or

21 applications of the Act that can be given effect without the invalid provision or

22 application, and to this end the provisions of this Act are severable.

23 ➔Section 53. The following KRS sections are repealed:

24 512.040 Criminal mischief in the third degree.

25 158.154 Principal's duty to report certain acts to local law enforcement agency.

26 ➔Section 54. Sections 12 and 13 of this Act take effect August 1, 2025.