

1 AN ACT relating to temporary restraining orders and injunctions.

2 WHEREAS, the General Assembly is the policy-making body for the
3 Commonwealth as the Supreme Court of Kentucky has noted time and again, so many
4 times that we need not provide citation; and

5 WHEREAS, the Court of Justice is not the policy-making body for the
6 Commonwealth; and

7 WHEREAS, statutes are presumed to be enacted by the General Assembly in
8 accordance with constitutional requirements; and

9 WHEREAS, on several occasions since 2017 a Circuit Court of the Court of Justice
10 issued a temporary injunction whose scope went beyond the provision of temporary relief
11 to the plaintiffs properly before the court, purporting instead to enjoin the implementation
12 and enforcement of legislation enacted by the General Assembly on a statewide basis;
13 and

14 WHEREAS, the nonenforcement of a statute constitutes irreparable harm to the
15 public and the government; and

16 WHEREAS, the Kentucky Supreme Court recognized in *Commonwealth ex rel*
17 *Conway v. Thompson*, 300 S.W. 3d 152 (Ky. 2009), the authority of the General
18 Assembly to enact a remedy that would restrict the issuance of statewide injunctions from
19 a Circuit Court; and

20 WHEREAS, the General Assembly seeks to mitigate the irreparable harm suffered
21 by the public and the government that arises from a Circuit Court's issuance of temporary
22 injunctive relief on a statewide basis prior to entry of a final judgment or even
23 interlocutory appellate review of the temporary injunction; and

24 WHEREAS, it is hereby declared by the General Assembly that the purpose of this
25 Act is to remedy the harms that arise from a Circuit Court's issuance of temporary
26 injunctive relief that is applicable to persons who are not properly before the Court;

27 NOW, THEREFORE,

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

2 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO
3 READ AS FOLLOWS:

4 *(1) Except in cases in which the Attorney General is a plaintiff or an intervening*
5 *plaintiff, when a plaintiff applies to a court for a temporary restraining order or*
6 *temporary injunction against the implementation or enforcement of a statute*
7 *enacted by the General Assembly, any relief granted by the court prior to entry of*
8 *a final judgment shall be limited in its scope to providing relief for that plaintiff.*
9 *(2) If a court issues a temporary restraining order or temporary injunction that is not*
10 *in conformity with subsection (1) of this section, it shall have no effect against the*
11 *implementation or enforcement of the statute with respect to persons who are not*
12 *plaintiffs to the litigation until an appellate court issues an interlocutory order*
13 *affirming the grant of temporary relief for persons who are not plaintiffs to the*
14 *litigation.*