

1 AN ACT relating to the transportation of students and declaring an emergency.

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

3 ➔Section 1. KRS 156.153 is amended to read as follows:

4 (1) All school buses for which bids are made or bid contracts awarded shall meet the
5 standards and specifications of the Kentucky Department of Education. The term
6 "school bus," as used in this section, shall mean any motor vehicle which meets the
7 standards and specifications for school buses as provided by law or by the standards
8 or specifications of the Kentucky Department of Education authorized by law and
9 used solely in transporting school children and school employees to and from
10 school under the supervision and control and at the direction of school authorities,
11 and shall further include school bus accessory equipment and supplies and
12 replacement equipment considered to be reasonably adaptable for purchase from
13 price contract agreements.

14 (2) ~~{Except in cases of emergencies or for the transportation of students with~~
15 ~~disabilities, only School buses as defined in subsection (1) of this section shall be~~
16 ~~used for transporting students to and from school along regular bus routes. Districts~~
17 ~~may use district owned vehicles that were designed and built by the manufacturer~~
18 ~~for passenger transportation when transporting nine (9) or fewer passengers,~~
19 ~~including the driver, for approved school activities. }~~Vehicles used under this
20 subsection shall be clearly marked as transporting students and shall be safety
21 inspected no less than once every thirty (30) days.

22 (3) **(a) Districts may also use vehicles owned, leased, or contracted by the district**
23 **that were designed and built by the manufacturer for passenger**
24 **transportation of nine (9) or fewer passengers, including the driver, for**
25 **transporting students to and from school and approved school activities**
26 **under an alternative transportation plan approved by the Kentucky**
27 **Department of Education.**

1 (b) Non-school bus passenger vehicles used under this subsection shall be:

2 1. Clearly marked as transporting students;

3 2. Safety inspected no less than once every thirty (30) days; and

4 3. Operated by an employee or contractor of a local school district that
5 has a valid Class (D) operator's license. An individual that operates a
6 vehicle to transport a student or students without a current valid
7 license to operate that motor vehicle shall be subject to the penalties
8 set forth in subsection (4) of Section 3 of this Act.

9 (c) The Kentucky Board of Education shall promulgate administrative
10 regulations in accordance with KRS Chapter 13A to establish minimum
11 standards and specifications for non-school bus passenger vehicles used
12 under this subsection and the minimum qualifications and training
13 requirements for drivers of non-school bus passenger vehicles.

14 **(4)** As part of its regular procedure for establishing and updating ~~[school bus]~~ standards
15 and specifications for school buses and non-school bus passenger vehicles, the
16 Kentucky Department of Education shall consider allowing school buses to operate
17 using clean transportation fuels, as defined in KRS 186.750. If the department
18 determines that school buses or non-school bus passenger vehicles may operate
19 using clean transportation fuels while maintaining the same or a higher degree of
20 safety as fuels currently allowed, it shall update its standards and specifications to
21 allow for such use.

22 ➔Section 2. KRS 160.380 is amended to read as follows:

23 (1) As used in this section:

24 (a) "Administrative finding of child abuse or neglect" means a substantiated
25 finding of child abuse or neglect issued by the Cabinet for Health and Family
26 Services that is:

27 1. Not appealed through an administrative hearing conducted in

- 1 accordance with KRS Chapter 13B;
- 2 2. Upheld at an administrative hearing conducted in accordance with KRS
- 3 Chapter 13B and not appealed to a Circuit Court; or
- 4 3. Upheld by a Circuit Court in an appeal of the results of an
- 5 administrative hearing conducted in accordance with KRS Chapter 13B;
- 6 (b) "Alternative education program" means a program that exists to meet the
- 7 needs of students that cannot be addressed in a traditional classroom setting
- 8 but through the assignment of students to alternative classrooms, centers, or
- 9 campuses that are designed to remediate academic performance, improve
- 10 behavior, or provide an enhanced learning experience. Alternative education
- 11 programs do not include career or technical centers or departments;
- 12 (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family
- 13 Services indicating that there are no administrative findings of child abuse or
- 14 neglect relating to a specific individual;
- 15 (d) "Relative" means father, mother, brother, sister, husband, wife, son and
- 16 daughter; and
- 17 (e) "Vacancy" means any certified position opening created by the resignation,
- 18 dismissal, nonrenewal of contract, transfer, or death of a certified staff
- 19 member of a local school district, or a new position created in a local school
- 20 district for which certification is required. However, if an employer-employee
- 21 bargained contract contains procedures for filling certified position openings
- 22 created by the resignation, dismissal, nonrenewal of contract, transfer, or
- 23 death of a certified staff member, or creation of a new position for which
- 24 certification is required, a vacancy shall not exist, unless certified positions
- 25 remain open after compliance with those procedures.
- 26 (2) Except as provided in KRS 160.346, the school district personnel actions identified
- 27 in this section shall be carried out as follows:

- 1 (a) All appointments, promotions, and transfers of principals, supervisors,
2 teachers, and other public school employees shall be made only by the
3 superintendent of schools, who shall notify the board of the action taken. All
4 employees of the local district shall have the qualifications prescribed by law
5 and by the administrative regulations of the Kentucky Board of Education and
6 of the employing board. Supervisors, principals, teachers, and other
7 employees may be appointed by the superintendent for any school year at any
8 time after February 1 preceding the beginning of the school year. No
9 superintendent of schools shall appoint or transfer himself or herself to
10 another position within the school district;
- 11 (b) When a vacancy occurs in a local school district, the superintendent shall
12 submit the job posting to the statewide job posting system described in KRS
13 160.152 fifteen (15) days before the position shall be filled. The local school
14 district shall post position openings in the local board office for public
15 viewing;
- 16 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to
17 prevent disruption of necessary instructional or support services of the school
18 district, the superintendent may seek a waiver from the chief state school
19 officer. If the waiver is approved, the appointment shall not be made until the
20 person recommended for the position has been approved by the chief state
21 school officer. The chief state school officer shall respond to a district's
22 request for waiver or for approval of an appointment within two (2) working
23 days; and
- 24 (d) When a vacancy occurs in a local district, the superintendent shall conduct a
25 search to locate minority teachers to be considered for the position. The
26 superintendent shall, pursuant to administrative regulations of the Kentucky
27 Board of Education, report annually the district's recruitment process and the

1 activities used to increase the percentage of minority teachers in the district.

2 (3) Restrictions on employment of relatives shall be as follows:

3 (a) No relative of a superintendent of schools shall be an employee of the school
4 district. However, this shall not apply to a relative who is a classified or
5 certified employee of the school district for at least thirty-six (36) months
6 prior to the superintendent assuming office and who is qualified for the
7 position the employee holds. A superintendent's spouse who has previously
8 been employed in a school system may be an employee of the school district.
9 A superintendent's spouse who is employed under this provision shall not hold
10 a position in which the spouse supervises certified or classified employees. A
11 superintendent's spouse may supervise teacher aides and student teachers.
12 However, the superintendent shall not promote a relative who continues
13 employment under an exception of this subsection;

14 (b) No superintendent shall employ a relative of a school board member of the
15 district;

16 (c) No principal's relative shall be employed in the principal's school; and

17 (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of
18 this subsection may be employed as a substitute for a certified or classified
19 employee if the relative is not:

- 20 1. A regular full-time or part-time employee of the district;
- 21 2. Accruing continuing contract status or any other right to continuous
22 employment;
- 23 3. Receiving fringe benefits other than those provided other substitutes; or
- 24 4. Receiving preference in employment or assignment over other
25 substitutes.

26 (4) No superintendent shall assign a certified or classified staff person to an alternative
27 education program as part of any disciplinary action taken pursuant to KRS 161.011

1 or 161.790 as part of a corrective action plan established pursuant to the local
2 district evaluation plan.

3 (5) No superintendent shall initially employ in any position in the district any person
4 who is a violent offender or has been convicted of a sex crime as defined by KRS
5 17.165 which is classified as a felony or persons with an administrative finding of
6 child abuse or neglect in records maintained by the Cabinet for Health and Family
7 Services. The superintendent may employ, at his or her discretion, except at a
8 Kentucky Educational Collaborative for State Agency Children program, persons
9 convicted of sex crimes classified as a misdemeanor.

10 (6) Requirements for background checks shall be as follows:

11 (a) A superintendent shall require the following individuals to submit to a
12 national and state criminal background check by the Department of Kentucky
13 State Police and the Federal Bureau of Investigation and have a clear CA/N
14 check, provided by the individual:

- 15 1. Each new certified or classified hire;
- 16 2. A nonfaculty coach or nonfaculty assistant as defined under KRS
17 161.185;
- 18 3. A student teacher;
- 19 4. A school-based decision making council parent member; and
- 20 5. Any adult who is permitted access to school grounds on a regularly
21 scheduled and continuing basis pursuant to a written agreement for the
22 purpose of providing services directly to a student or students as part of
23 a school-sponsored program or activity;

- 24 (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 25 a. Classified and certified individuals employed by the school district
26 prior to June 27, 2019;
 - 27 b. Certified individuals who were employed in another certified

1 position in a Kentucky school district within six (6) months of the
2 date of hire and who had previously submitted to a national and
3 state criminal background check and who have a clear CA/N check
4 for the previous employment; or

5 c. Student teachers who have submitted to and provide a copy of a
6 national and state criminal background check by the Department
7 of Kentucky State Police and the Federal Bureau of Investigation
8 through an accredited teacher education institution in which the
9 student teacher is enrolled and who have a clear CA/N check.

10 2. The Education Professional Standards Board may promulgate
11 administrative regulations to impose additional qualifications to meet
12 the requirements of Public Law 92-544;

13 (c) A parent member may serve prior to the receipt of the criminal history
14 background check and CA/N letter required by paragraph (a) of this
15 subsection but shall be removed from the council on receipt by the school
16 district of a report documenting a record of abuse or neglect, or a sex crime or
17 criminal offense against a victim who is a minor as defined in KRS 17.500, or
18 as a violent offender as defined in KRS 17.165, and no further procedures
19 shall be required; ~~and~~

20 (d) A superintendent may require a volunteer or a visitor to submit to a national
21 and state criminal history background check by the Department of Kentucky
22 State Police and the Federal Bureau of Investigation and have a clear CA/N
23 check, provided by the individual; and ~~and~~

24 (e) The superintendent of a school district operating under an alternative
25 transportation plan approved by the Kentucky Department of Education in
26 accordance with subsection (3) of Section 1 of this Act shall require the
27 driver of any non-school bus passenger vehicle authorized to transport

students to and from school and approved school activities pursuant to the alternative transportation plan to:

1. Submit to an annual national and state criminal background check by the Department of Kentucky State Police and the Federal Bureau of Investigation;
2. Provide a biannual driving history record check performed by the Transportation Cabinet;
3. Provide an annual clear CA/N check;
4. Notify the superintendent of any conviction for a violation under KRS Chapter 189 for which penalty points are assessed; and
5. Notify the superintendent of any citation or arrest for a violation of any provision of KRS Chapter 189A. The superintendent shall immediately inform the Kentucky Department of Education of the notification.

(7) (a) If a certified or classified position remains unfilled after July 31 or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check and a clear CA/N check, provided by the individual. Application for the criminal record and a request for a clear CA/N check of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no administrative

1 findings of child abuse or neglect found through a background check of child
2 abuse and neglect records maintained by the Cabinet for Health and Family
3 Services.

4 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
5 probationary employment under this section shall terminate on receipt by the
6 school district of a criminal history background check documenting a record
7 of a sex crime or as a violent offender as defined in KRS 17.165 and no
8 further procedures shall be required.

9 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified
10 employee on the basis of a criminal record other than a record of a sex crime or as a
11 violent offender as defined in KRS 17.165, or on the basis of a CA/N check
12 showing an administrative finding of child abuse or neglect.

13 (9) (a) All fingerprints requested under this section shall be on an applicant
14 fingerprint card provided by the Department of Kentucky State Police. The
15 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
16 from the Department of Kentucky State Police after a state criminal
17 background check is conducted. The results of the state and federal criminal
18 background check shall be sent to the hiring superintendent. Any fee charged
19 by the Department of Kentucky State Police, the Federal Bureau of
20 Investigation, and the Cabinet for Health and Family Services shall be an
21 amount no greater than the actual cost of processing the request and
22 conducting the search.

23 (b) Each application form, provided by the employer to an applicant for a
24 certified or classified position, shall conspicuously state the following: "FOR
25 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL
26 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A
27 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET

1 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT
2 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR
3 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD
4 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET
5 FOR HEALTH AND FAMILY SERVICES."

6 (c) Each application form for a district position shall require the applicant to:

- 7 1. Identify the states in which he or she has maintained residency,
8 including the dates of residency; and
- 9 2. Provide picture identification.

10 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
11 when an employee of the school district is charged with any offense which is
12 classified as a felony, the superintendent may transfer the employee to a second
13 position until such time as the employee is found not guilty, the charges are
14 dismissed, the employee is terminated, or the superintendent determines that further
15 personnel action is not required. The employee shall continue to be paid at the same
16 rate of pay he or she received prior to the transfer. If an employee is charged with
17 an offense outside of the Commonwealth, this provision may also be applied if the
18 charge would have been treated as a felony if committed within the
19 Commonwealth. Transfers shall be made to prevent disruption of the educational
20 process and district operations and in the interest of students and staff and shall not
21 be construed as evidence of misconduct.

22 (11) Notwithstanding any law to the contrary, each certified and classified employee of
23 the school district shall notify the superintendent if he or she has been found by the
24 Cabinet for Health and Family Services to have abused or neglected a child, and if
25 he or she has waived the right to appeal a substantiated finding of child abuse or
26 neglect or if the substantiated incident was upheld upon appeal. Any failure to
27 report this finding shall result in the certified or classified employee being subject

1 to dismissal or termination.

2 (12) The form for requesting a CA/N check shall be made available on the Cabinet for
3 Health and Family Services website.

4 ➔Section 3. KRS 156.990 is amended to read as follows:

5 (1) Any witness who fails, without legal excuse, to attend or to testify, when required
6 by the chief state school officer under these provisions, shall be fined not more than
7 twenty-five dollars (\$25) for each offense.

8 (2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be
9 fined not more than five hundred dollars (\$500) or imprisoned not more than three
10 (3) months, or both.

11 (3) A violation of subsection (1) of KRS 156.483 shall cause the Department of
12 Education to be fined not less than five hundred dollars (\$500) or more than one
13 thousand dollars (\$1,000).

14 **(4) Any person who violates subsection (3)(b)3. of Section 1 of this Act by operating a**
15 **school bus or non-school bus passenger vehicle to transport a student or students**
16 **without a current valid license to operate that motor vehicle within the**
17 **Commonwealth shall be guilty of a Class D felony.**

18 ➔Section 4. Whereas the General Assembly is committed to efficiency in pupil
19 transportation, an emergency is declared to exist, and this Act takes effect upon its
20 passage and approval by the Governor or upon its otherwise becoming a law.