

1 AN ACT relating to protective orders.

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

3 ➔Section 1. KRS 403.730 is amended to read as follows:

- 4 (1) (a) The court shall review a petition for an order of protection immediately upon
5 its filing. If the review indicates that domestic violence and abuse exists, the
6 court shall summons the parties to an evidentiary hearing not more than
7 fourteen (14) days in the future. If the review indicates that such a basis does
8 not exist, the court may consider an amended petition or dismiss the petition
9 without prejudice.
- 10 (b) Service of the summons and hearing order under this subsection shall be made
11 upon the adverse party personally **or in accordance with Rule 4.05 of the**
12 **Kentucky Rules of Civil Procedure**, and may be made in the manner and by
13 the persons authorized to serve subpoenas under Rule 45.03 of the **Kentucky**
14 Rules of Civil Procedure. A summons may be reissued if service has not been
15 made on the adverse party by the fixed court date and time.
- 16 (2) (a) If the review under this section also indicates the presence of an immediate
17 and present danger of domestic violence and abuse, the court shall, upon the
18 filing of the petition, issue ex parte an emergency protective order that:
- 19 1. Authorizes relief appropriate to the situation utilizing the alternatives set
20 out in KRS 403.740, other than awarding temporary support or
21 counseling;
 - 22 2. Sets forth which communications, if any, as requested by the petitioner,
23 are authorized and which communications are unauthorized;
 - 24 3. Allows either party to retrieve his or her personal belongings from the
25 parties' shared residence and directs law enforcement to assist, if
26 requested;
 - 27 4. Expires upon the conclusion of the evidentiary hearing required by this

1 section unless extended or withdrawn by subsequent order of the court;
2 and

3 5. Does not order or refer the parties to mediation unless requested by the
4 petitioner, and the court finds that:

5 a. The petitioner's request is voluntary and not the result of coercion;
6 and

7 b. Mediation is a realistic and viable alternative to or adjunct to the
8 issuance of an order sought by the petitioner.

9 Nothing in this paragraph shall be interpreted to place any restriction or
10 restraint on the petitioner.

11 (b) If an order is not issued under this subsection, the court shall note on the
12 petition, for the record, any action taken or denied and the reason for it.

13 ➔Section 2. KRS 403.745 is amended to read as follows:

14 (1) An emergency protective order and a domestic violence order shall become
15 effective and binding on the respondent when the respondent is given notice of the
16 existence and terms of the order by a peace officer or the court or upon personal
17 service of the order **or service in accordance with Rule 4.05 of the Kentucky Rules**
18 **of Civil Procedure**, whichever is earlier. A peace officer or court giving notice of
19 an unserved order shall make all reasonable efforts to arrange for the order's
20 personal service upon the respondent. Once effective, a peace officer or the court
21 may enforce the order's terms and act immediately upon their violation.

22 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any
23 filing, hearing, service, or order authorized by or required to implement KRS
24 403.715 to 403.785.

25 (3) A court shall not require mediation, conciliation, or counseling prior to or as a
26 condition of issuing an order of protection.

27 (4) Mutual orders of protection may be issued only if:

- 1 (a) Separate petitions have been filed by both parties; and
- 2 (b) The orders are written with sufficient specificity to allow any peace officer to
- 3 identify which party has violated the order.
- 4 (5) Upon proper filing of a motion, either party may seek to amend an order of
- 5 protection.
- 6 (6) Testimony offered by an adverse party in a hearing ordered pursuant to KRS
- 7 403.730 shall not be admissible in any criminal proceeding involving the same
- 8 parties, except for purposes of impeachment.
- 9 (7) (a) The Court of Justice, county and Commonwealth's attorneys, law enforcement
- 10 agencies, and victim services organizations may jointly operate a domestic
- 11 violence intake center to assist persons who apply for relief under KRS
- 12 403.715 to 403.785.
- 13 (b) In cases where criminal conduct is alleged, a court may suggest that a
- 14 petitioner voluntarily contact the county attorney. A court may not withhold
- 15 or delay relief if the petitioner elects to not contact the county attorney.
- 16 (8) A person's right to apply for relief under this chapter shall not be affected by that
- 17 person leaving his or her residence to avoid domestic violence and abuse.
- 18 (9) A court shall order the omission or deletion of the petitioner's address and the
- 19 address of any minor children from any orders or documents to be made available
- 20 to the public or to any person who engaged in the acts complained of in the petition.
- 21 (10) (a) If a petition under KRS 403.715 to 403.785 did not result in the issuance of a
- 22 domestic violence order, the court in which the petition was heard may for
- 23 good cause shown order the expungement of the records of the case if:
- 24 1. Six (6) months have elapsed since the case was dismissed; and
- 25 2. During the six (6) months preceding the expungement request, the
- 26 respondent has not been bound by an order of protection issued for the
- 27 protection of any person, including an order of protection as defined in

1 KRS 456.010.

2 (b) As used in this subsection, "expungement" has the same meaning as in KRS
3 431.079.

4 ➔Section 3. KRS 453.060 is amended to read as follows:

5 (1) If the successful party is represented by a licensed attorney, the following attorney's
6 fees shall be allowed:

7 (a) In the Court of Appeals,\$10.00

8 (b) In the Circuit Court,5.00

9 (c) In all cases in the District Court,2.50

10 (2) A guardian ad litem or warning order attorney shall be allowed by the court a
11 reasonable fee for his or her services, to be paid by the plaintiff and taxed as costs
12 except that a warning order attorney appointed under KRS 403.715 to 403.785 or
13 KRS Chapter 456 shall be paid by the Finance and Administration Cabinet.

14 (3) The attorney fees allowed by subsection (1)(b) and (c) shall be taxed as costs at the
15 termination of the action and the clerks of the various courts shall at the end of each
16 month pay all sums collected as taxed attorney's fees during the month to the
17 trustees of the county law library to be used by the trustees pursuant to KRS
18 Chapter 172.

19 ➔Section 4. KRS 456.040 is amended to read as follows:

20 (1) (a) The court shall review a petition for an interpersonal protective order
21 immediately upon its filing. If the review indicates that dating violence and
22 abuse, stalking, or sexual assault exists, the court shall summons the parties to
23 an evidentiary hearing not more than fourteen (14) days in the future. If the
24 review indicates that such a basis does not exist, the court may consider an
25 amended petition or dismiss the petition without prejudice.

26 (b) Service of the summons and hearing order under this subsection shall be made
27 upon the adverse party personally or in accordance with Rule 4.05 of the

1 **Kentucky Rules of Civil Procedure**, and may be made in the manner and by
2 the persons authorized to serve subpoenas under Rule 45.03 of the **Kentucky**
3 Rules of Civil Procedure. A summons may be reissued if service has not been
4 made on the adverse party by the fixed court date and time.

5 (2) (a) If the review under this section also indicates the presence of an immediate
6 and present danger of dating violence and abuse, sexual assault, or stalking,
7 the court shall, upon the filing of the petition, issue ex parte a temporary
8 interpersonal protective order that:

- 9 1. Authorizes relief appropriate to the situation utilizing the alternatives set
10 out in KRS 456.060;
- 11 2. Sets forth which communications, if any, as requested by the petitioner,
12 are authorized and which communications are unauthorized;
- 13 3. Expires upon the conclusion of the evidentiary hearing required by this
14 section unless extended or withdrawn by subsequent order of the court;
15 and
- 16 4. Does not order or refer the parties to mediation unless requested by the
17 petitioner, and the court finds that:
 - 18 a. The petitioner's request is voluntary and not the result of coercion;
19 and
 - 20 b. Mediation is a realistic and viable alternative to or adjunct to the
21 issuance of an order sought by the petitioner.

22 Nothing in this paragraph shall be interpreted to place any restriction or
23 restraint on the petitioner.

24 (b) If an order is not issued under this subsection, the court shall note on the
25 petition, for the record, any action taken or denied and the reason for it.

26 ➔Section 5. KRS 456.070 is amended to read as follows:

27 (1) A temporary or ordinary interpersonal protective order shall become effective and

1 binding on the respondent when the respondent is given notice of the existence and
2 terms of the order by a peace officer or the court or upon personal service of the
3 order or service in accordance with Rule 4.05 of the Kentucky Rules of Civil
4 Procedure, whichever is earlier. A peace officer or court giving notice of an
5 unserved order shall make all reasonable efforts to arrange for the order's personal
6 service upon the respondent. Once effective, a peace officer or the court may
7 enforce the order's terms and act immediately upon their violation.

8 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any
9 filing, hearing, service, or order authorized by or required to implement this
10 chapter.

11 (3) A court shall not require mediation, conciliation, or counseling prior to or as a
12 condition of issuing an interpersonal protective order.

13 (4) Mutual protective orders may be issued only if:

14 (a) Separate petitions have been filed by both parties; and

15 (b) The orders are written with sufficient specificity to allow any peace officer to
16 identify which party has violated the order.

17 (5) Upon proper filing of a motion, either party may seek to amend an interpersonal
18 protective order.

19 (6) Testimony offered by an adverse party in a hearing ordered pursuant to KRS
20 456.040 shall not be admissible in any criminal proceeding involving the same
21 parties except for purposes of impeachment.

22 (7) (a) The Court of Justice, county and Commonwealth's attorneys, law enforcement
23 agencies, and victim services organizations may jointly operate an
24 interpersonal protective order intake center to assist persons who apply for
25 relief under this chapter.

26 (b) In cases where criminal conduct is alleged, a court may suggest that a
27 petitioner voluntarily contact the county attorney. A court may not withhold

1 or delay relief if the petitioner elects to not contact the county attorney.

2 (8) A person's right to apply for relief under this chapter shall not be affected by that
3 person leaving his or her residence to avoid dating violence and abuse, sexual
4 assault, or stalking.

5 (9) A court shall order the omission or deletion of the petitioner's address and the
6 address of any minor children from any orders or documents to be made available
7 to the public or to any person who engaged in the acts complained of in the petition.

8 (10) (a) If a petition under this chapter did not result in the issuance of a non-
9 temporary interpersonal protective order, the court in which the petition was
10 heard may for good cause shown order the expungement of the records of the
11 case if:

- 12 1. Six (6) months have elapsed since the case was dismissed; and
13 2. During the six (6) months preceding the expungement request, the
14 respondent has not been bound by an order of protection issued for the
15 protection of any person including an order of protection as defined in
16 KRS 403.720.

17 (b) As used in this subsection, "expungement" has the same meaning as in KRS
18 431.079.