

1 AN ACT relating to crisis aversion and rights retention orders.

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

3 ➔SECTION 1. KRS CHAPTER 202D IS ESTABLISHED AND A NEW
4 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *Sections 1 to 17 of this Act shall be interpreted to:*

6 *(1) Allow the Commonwealth to act expeditiously in the interest of public safety and*
7 *welfare; and*

8 *(2) Preserve the rights afforded under the Constitutions of the United States and the*
9 *Commonwealth of Kentucky to the people of the Commonwealth to purchase,*
10 *possess, receive, and have firearms in their custody or control.*

11 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
12 READ AS FOLLOWS:

13 *As used in Sections 1 to 17, and 18 of this Act:*

14 *(1) "Crisis aversion and rights retention order" means any crisis aversion and rights*
15 *retention order issued by a court pursuant to Section 4 or 7 of this Act, including*
16 *a foreign crisis aversion and rights retention order filed under Section 15 of this*
17 *Act;*

18 *(2) (a) "Law enforcement officer" means a sworn member of a lawfully organized*
19 *police unit or police force of state, county, city, urban-county government,*
20 *charter county government, consolidated local government, or unified local*
21 *government who is responsible for the detection of crime and the*
22 *enforcement of the general criminal laws of the state, as well as a federal*
23 *police officer, sheriff, sworn deputy sheriff, and campus police officer who*
24 *is commissioned under KRS 164.950.*

25 *(b) "Law enforcement officer" does not include any constable, deputy*
26 *constable, Commonwealth detective under KRS 69.110, county detective*
27 *under KRS 69.360, special local peace officer, special law enforcement*

1 officer, or auxiliary police officer;

2 (3) "Respondent" means the person against whom a crisis aversion and rights
3 retention order is sought; and

4 (4) "Responsible party" means a person who:

5 (a) Does not cohabit with the respondent;

6 (b) May lawfully possess a firearm; and

7 (c) Enters into a written court agreement to accept the transfer of a firearm as
8 a responsible party under Section 11 of this Act.

9 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
10 READ AS FOLLOWS:

11 (1) A law enforcement officer may file a petition for a crisis aversion and rights
12 retention order.

13 (2) The petition shall be filed in the respondent's county of residence.

14 (3) The petition shall be verified and contain the:

15 (a) Name and job title or rank of the petitioner;

16 (b) Name, age, address, county of residence, and current location of the
17 respondent, if known;

18 (c) Facts and circumstances that constitute the basis for the petition; and

19 (d) Descriptions of the number, type, and location of any firearms presently
20 believed by the petitioner to be possessed or controlled by the respondent, if
21 known.

22 (4) The petition shall be filed on a form provided by the Administrative Office of the
23 Courts. The Administrative Office of the Courts shall make the form available on
24 its website to all law enforcement officers. The form shall also be available to
25 petitioners in the office of the Circuit Court clerk.

26 (5) In all proceedings under Sections 4, 7, 10, and 12 of this Act it shall be the duty
27 of the county attorney to:

1 (a) Assist the petitioner;

2 (b) Represent the interest of the Commonwealth; and

3 (c) Assist the court in its inquiry by the presentation of evidence.

4 (6) (a) The District Court shall have exclusive jurisdiction over crisis aversion and
5 rights retention orders.

6 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour
7 access to crisis aversion and rights retention orders in each county. Any
8 protocol, whether statewide or local, shall be subject to Supreme Court
9 review and approval. Any amendment to an existing protocol shall also be
10 subject to Supreme Court review and approval.

11 (7) Any judge to whom a petition is referred under this section shall have full
12 authority to review and hear a petition and subsequently dismiss or grant and
13 enforce a crisis aversion and rights retention order.

14 (8) If the judge of the court to whom a petition was referred for entry of an original
15 order, or for termination, modification, or enforcement of an existing order is
16 unavailable or unable to act within a reasonably expedient time, the proceedings
17 may be conducted by any judge of the same judicial district in accordance with
18 court rules.

19 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
20 READ AS FOLLOWS:

21 (1) Upon receipt of the petition, the court shall:

22 (a) Review the statements contained in the petition, considering the time that
23 has elapsed since any events described in the petition occurred; and

24 (b) Examine the petitioner under oath as to the contents of the petition.

25 (2) If the court finds there is probable cause to believe that the respondent presents
26 an immediate and present danger of causing serious physical injury to self or
27 others by purchasing, possessing, receiving, or having in his or her custody or

1 control a firearm, the court shall, without prior notice to the respondent, issue a
2 temporary crisis aversion and rights retention order.

3 (3) If the court finds there is not probable cause to believe that the respondent
4 presents an immediate and present danger of causing serious physical injury to
5 self or others, the court shall dismiss the petition without prejudice.

6 (4) Upon issuance of a temporary crisis aversion and rights retention order under
7 subsection (2) of this section, the court shall set an evidentiary hearing within six
8 (6) days from the date of the order, excluding holidays and weekends, to
9 determine if a crisis aversion and rights retention order should be entered, and
10 issue a summons to the parties commanding the parties to appear at the time and
11 place of the hearing.

12 (5) A temporary crisis aversion and rights retention order issued under subsection (2)
13 of this section shall:

14 (a) Order the surrender of the respondent's firearms until the hearing required
15 in subsection (4) of this section is held to determine whether to issue a crisis
16 aversion and rights retention order;

17 (b) Order that the respondent shall not purchase, possess, receive, or have in
18 his or her custody or control a firearm, or attempt to purchase or receive a
19 firearm while the temporary order is in effect;

20 (c) Contain a finding of the specific and articulated grounds supporting the
21 issuance of the temporary crisis aversion and rights retention order;

22 (d) Include the hearing date, providing the address of the court and the time
23 when the hearing is scheduled and a statement that the purpose of the
24 hearing is to determine whether a crisis aversion and rights retention order
25 will be entered;

26 (e) Contain a statement that the respondent is not being accused of or charged
27 with any crime, and the hearing is not a criminal proceeding;

1 (f) Contain a statement that the respondent has the right to be represented by
2 counsel;

3 (g) Contain a statement that the respondent shall be entitled to a rebuttable
4 presumption at the time of the hearing that any firearms restrictions
5 imposed by the temporary crisis aversion and rights retention order shall be
6 lifted and any firearms dispossessed from the respondent shall be returned
7 to the respondent if the petitioner fails to rebut the presumption by clear and
8 convincing evidence;

9 (h) Include notice that whether the respondent attends the hearing or not, the
10 court will rule on whether to issue a crisis aversion and rights retention
11 order; and

12 (i) Be served with the summons issued under subsection (4) of this section and
13 in accordance with Section 5 of this Act.

14 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
15 READ AS FOLLOWS:

16 (1) (a) A summons and the temporary crisis aversion and rights retention order
17 issued by the court under subsections (2) and (4) of Section 4 of this Act
18 shall be personally served on the respondent by a law enforcement officer
19 between the hours of 6 a.m. and 10 p.m., except in exigent circumstances
20 where the court finds based upon clear and convincing evidence that there
21 are substantial and imminent risks to the health and safety of the
22 respondent, the occupants of the premises where the summons and order
23 are to be served, or the public that justify service of the summons and order
24 during other hours designated by the court.

25 (b) Any law enforcement officer serving the summons and temporary crisis
26 aversion and rights retention order under paragraph (a) of this subsection
27 shall be equipped with body-worn cameras, or, in counties having a

1 population of less than ninety thousand (90,000), equipped with other
2 audio-visual or audio recording devices issued by the government, and shall
3 record the entirety of the service of the summons and order and the
4 collection of any firearms with a recording device.

5 (c) 1. Upon service of the summons and order upon the respondent, the law
6 enforcement officer shall take custody of all firearms in the
7 possession, custody, or control of the respondent.

8 2. The law enforcement officer shall not enter the home or interior
9 premises occupied by the respondent unless specifically requested to
10 do so by the respondent for the sole purpose of collecting the firearms
11 if the respondent is unable to surrender the firearms without the
12 requested assistance, unless the officer has an independent, lawful
13 basis to enter based upon exigent circumstances, or as authorized by a
14 search warrant issued by a court of competent jurisdiction.

15 3. Nothing in this section shall be construed to authorize any law
16 enforcement officer to search the home or interior premises occupied
17 by the respondent for any purpose other than as provided in
18 subparagraph 2. of this paragraph unless authorized by a search
19 warrant issued by a court of competent jurisdiction.

20 4. Nothing in this paragraph shall be construed to authorize any law
21 enforcement officer who enters the premises as provided in
22 subparagraph 2. of this paragraph to take possession of, confiscate, or
23 seize any property other than firearms except as may be otherwise
24 provided by state or federal law or by a search warrant issued by a
25 court of competent jurisdiction.

26 (d) Upon the surrender of all firearms by the respondent in compliance with the
27 court's order under subsection (5) of Section 4 of this Act, the law

1 enforcement officer taking possession of the firearms shall issue a receipt
2 identifying the firearms that have been surrendered and provide a copy of
3 the receipt to the respondent. The officer shall file the original receipt with
4 the court and shall ensure that the law enforcement agency retains a copy
5 of the receipt.

6 (2) If a respondent fails to surrender any and all firearms in his or her possession,
7 custody, or control as required by the temporary crisis aversion and rights
8 retention order, the law enforcement officer:

9 (a) Shall advise the respondent that the refusal may constitute grounds for a
10 finding of contempt of court; and

11 (b) May request the court to issue a search warrant for the limited purpose of
12 taking possession of all firearms found on or in the identified premises if a
13 search warrant has not previously been issued and if the court finds, based
14 upon exigent circumstances and clear and convincing evidence, that
15 immediate inability to collect the firearms will endanger the life or safety of
16 any person.

17 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
18 READ AS FOLLOWS:

19 (1) Prior to or at a hearing ordered under Section 4 of this Act, the court may obtain
20 the respondent's criminal and protective order history, and any information
21 obtained shall be provided to the petitioner and respondent.

22 (2) No request for an extension of time made prior to or at the hearing ordered under
23 Section 4 of this Act shall be granted unless the respondent surrenders his or her
24 firearms to a law enforcement officer, or to a responsible party in the presence of
25 a law enforcement officer.

26 (3) If the respondent is not present at the hearing ordered under Section 4 of this
27 Act, the court shall conduct the hearing in accordance with Section 7 of this Act.

1 ➔ SECTION 7. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
2 READ AS FOLLOWS:

3 (1) (a) When a hearing is ordered under Section 4 of this Act, the court shall
4 consider all admissible evidence presented by the petitioner and the
5 respondent, and may also consider other relevant evidence.

6 (b) The court shall advise the respondent at the time of the hearing that he or
7 she is:

8 1. Not being accused of or charged with a crime; and

9 2. Entitled to a rebuttable presumption that any firearms removed from
10 the possession, custody, or control of the respondent pursuant to the
11 temporary crisis aversion and rights revision order issued under
12 Section 4 of this Act be returned to the respondent and the petition be
13 dismissed.

14 (2) Following a hearing held as ordered under Section 4 of this Act, if a court finds,
15 based upon clear and convincing evidence, that the petitioner has overcome the
16 rebuttable presumption afforded the respondent under subsection (1)(b) of this
17 section, and that the respondent presents an immediate and present danger of
18 causing serious physical injury to self or others if permitted to purchase, possess,
19 receive, or have in his or her custody or control a firearm, the court shall issue a
20 crisis aversion and rights retention order that:

21 (a) Prohibits the respondent from purchasing, possessing, receiving, or having
22 in his or her custody or control a firearm, or attempting to purchase or
23 receive a firearm from the date the order is issued until the order expires;
24 and

25 (b) Orders all firearms in the possession, custody, or control of the respondent
26 be held by a law enforcement agency until the order expires.

27 (3) A crisis aversion and rights retention order shall be effective for a period of time

1 fixed by the court, not to exceed ninety (90) days, and may be renewed upon
2 expiration pursuant to Section 10 of this Act for subsequent periods of up to
3 ninety (90) days each.

4 (4) A crisis aversion and rights retention order shall include:

5 (a) A statement that the respondent shall not purchase, possess, receive, or have
6 in his or her custody or control, or attempt to purchase, possess, or receive,
7 a firearm while the order is in effect;

8 (b) A description of the requirements for surrender of firearms and the option
9 of transfer to a responsible party under Section 11 of this Act;

10 (c) The specific and articulated grounds supporting issuance of the order;

11 (d) The date and time the order expires;

12 (e) The address of the court that issued the order;

13 (f) A statement that the respondent has not been accused of, charged with, or
14 found guilty of any crime; and

15 (g) A statement that the respondent has the right to request a hearing to
16 terminate the order once every forty-five (45) days during any effective
17 period of the order, and shall be entitled to a rebuttable presumption for
18 return of any firearms removed from the respondent's possession, custody,
19 or control.

20 (5) The court shall provide information regarding locally available resources to
21 assist persons in crisis to:

22 (a) The respondent;

23 (b) Any identified family member of the respondent;

24 (c) Any member of the respondent's household, if known; and

25 (d) Any other identified individual reasonably believed to be at risk of serious
26 physical injury under the specific facts that provide the basis for issuance of
27 the court's order under this section.

1 (6) Following a hearing held as ordered under Section 4 of this Act, if a court finds
2 that the petitioner has not overcome by clear and convincing evidence the
3 presumption that the respondent no longer presents an immediate and present
4 danger of causing serious physical injury to self or others if permitted to
5 purchase, possess, receive, or have in his or her custody or control a firearm, the
6 court shall dismiss the petition and the court shall order return of the firearms to
7 the respondent in the manner provided under Section 13 of this Act.

8 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
9 READ AS FOLLOWS:

10 (1) A temporary crisis aversion and rights retention order issued under Section 4 of
11 this Act and a crisis aversion and rights retention order issued under Section 7 of
12 this Act shall become effective and binding on the respondent when the
13 respondent is given notice of the existence and terms of the order by a law
14 enforcement officer, the court, or upon personal service of the order, whichever is
15 earlier. A law enforcement officer giving notice of an unserved order, or a court
16 receiving notice of an unserved order, shall make all reasonable efforts to
17 arrange for the order's personal service upon the respondent. Once effective, a
18 law enforcement officer or the court may enforce the order's terms and act
19 immediately upon their violation.

20 (2) No costs, fees, or bond shall be assessed against or required of a petitioner or
21 respondent for any filing, hearing, service, or order authorized by or required to
22 implement Sections 1 to 17 of this Act.

23 (3) Upon proper filing of a motion as provided in Section 10 of this Act, either party
24 may seek to terminate or renew a crisis aversion and rights retention order if
25 there has been a material change in circumstances or if there is new evidence to
26 present. If the respondent files a motion to terminate a crisis aversion and rights
27 retention order, the respondent shall be entitled to a rebuttable presumption that

1 the order should be terminated.

2 (4) Testimony offered by a petitioner or a respondent in a hearing ordered pursuant
3 to Section 4 of this Act or held under Section 10 of this Act shall not be
4 admissible in any criminal proceeding except for purposes of impeachment.

5 (5) The court records of a respondent made in all proceedings under Sections 1 to 17
6 of this Act shall be confidential and shall not be open to the general public for
7 inspection, with the exception of law enforcement officers. Aggregate statistical
8 data about the number of temporary crisis aversion and rights retention orders
9 and crisis aversion and rights retention orders requested, issued, renewed, denied,
10 dissolved, or terminated shall be made available by the Administrative Office of
11 the Courts to the public upon request.

12 (6) If a petition filed under Section 3 of this Act does not result in the issuance of a
13 crisis aversion and rights retention order, the court in which the petition was
14 heard shall order the expungement of the records of the case after thirty (30) days
15 have elapsed since the case was dismissed, in accordance with Section 18 of this
16 Act, unless the respondent requests in writing to preserve the record.

17 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 202D IS CREATED TO
18 READ AS FOLLOWS:

19 (1) Within twenty-four (24) hours of issuing, recognizing, renewing, dissolving, or
20 terminating a summons or a crisis aversion and rights retention order under
21 Sections 1 to 17 of this Act, the court shall forward, by the most expedient means
22 reasonably available, a copy of each to the appropriate agency designated for
23 entry of orders of protection into the Law Information Network of Kentucky, to
24 the agency assigned service, and to the Department of Kentucky State Police.

25 (2) Within twenty-four (24) hours of achieving service, a law enforcement officer
26 who serves a temporary crisis aversion and rights retention order issued under
27 Section 4 of this Act or a crisis aversion and rights retention order issued under

1 Section 7 of this Act shall cause a copy of the order issued to be electronically
2 forwarded to the appropriate agency designated for entry of orders of protection
3 into the Law Information Network of Kentucky and to the Department of
4 Kentucky State Police.

5 (3) (a) All forms, affidavits, and crisis aversion and rights retention orders issued
6 or filed under Sections 1 to 17 of this Act which require entry into the Law
7 Information Network of Kentucky shall be entered on forms prescribed by
8 the Administrative Office of the Courts after consultation with the Justice
9 and Public Safety Cabinet.

10 (b) The information required to be submitted to the Law Information Network
11 of Kentucky under this section shall include identifying information about
12 the respondent and the date the order was issued, renewed, dissolved, or
13 terminated. In the case of a crisis aversion and rights retention order issued
14 under Section 7 of this Act, the court shall include the date the order is set
15 to expire. The court shall also indicate whether the respondent to a crisis
16 aversion and rights retention order was present in court to be advised of the
17 contents of the order or if the respondent failed to appear. The respondent's
18 presence in court shall constitute proof of service of notice of the terms of
19 the order.

20 (4) The Department of Kentucky State Police shall immediately make information
21 regarding a crisis aversion and rights retention order entered, recognized,
22 renewed, or terminated under Sections 1 to 17 of this Act available to the
23 National Instant Criminal Background Check System for the purposes of firearm
24 purchaser background checks.

25 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
26 TO READ AS FOLLOWS:

27 (1) (a) A respondent to a crisis aversion and rights retention order issued under

1 Section 7 of this Act may submit to the issuing court a written request to
2 terminate the order once every forty-five (45) days during the effective
3 period of the order. The respondent may submit evidence with the request in
4 support of termination of the order and may request a hearing on the
5 request for termination.

6 (b) Notice of the request with any accompanying evidence shall be served on
7 the petitioner in accordance with the laws of this Commonwealth regarding
8 service of process, and a copy shall be forwarded to the county attorney.

9 (c) If the court orders a termination hearing, the hearing shall:

10 1. Occur within fourteen (14) days from the date of service of the request
11 upon the petitioner; and

12 2. Be heard by the issuing court sitting without a jury.

13 (d) The respondent seeking termination of the order shall be entitled to a
14 rebuttable presumption that the respondent will not pose an immediate and
15 present danger of causing serious physical injury to self or others if
16 permitted to purchase, possess, receive, or have in his or her custody or
17 control a firearm.

18 (e) The court may consider proof of crisis intervention, treatment, or services
19 received by the respondent as evidence in favor of termination of the order.

20 (f) If the court finds after review of the evidence submitted by the respondent
21 and the petitioner, or after any hearing held under paragraph (c) of this
22 subsection, that the petitioner has not overcome the rebuttable presumption
23 in favor of the respondent by clear and convincing evidence, the court shall
24 immediately terminate the order.

25 (2) For any crisis aversion and rights retention order issued under Section 7 of this
26 Act, the issuing court shall notify the petitioner and the county attorney that the
27 order is set to expire at least thirty (30) days before expiration. The notice shall

1 advise the petitioner of the procedures for seeking a renewal of the order
2 pursuant to this section.

3 (3) (a) A petitioner may request a renewal of a crisis aversion and rights retention
4 order at any time during the thirty (30) day period preceding the expiration
5 of the order.

6 (b) Notice of the request with any accompanying evidence shall be served on
7 the respondent in accordance with the laws of this Commonwealth
8 regarding service of process, and a copy shall be forwarded to the county
9 attorney.

10 (c) 1. Renewal proceedings for a crisis aversion and rights retention order
11 shall be heard by a judge of the court which issued the existing order,
12 and the existing crisis aversion and rights retention order shall remain
13 in effect until the court holds the hearing.

14 2. Any hearing ordered under this paragraph shall be held no later than
15 fourteen (14) days from the date of service of the renewal request
16 upon the respondent.

17 3. Notice of the hearing shall be served on all parties in accordance with
18 the laws of this Commonwealth regarding service of process, and a
19 copy shall be forwarded to the county attorney.

20 (d) The court may, after notice and a hearing, renew a crisis aversion and
21 rights retention order issued under Section 7 of this Act for up to ninety (90)
22 days after the prior date of expiration if the court finds by clear and
23 convincing evidence that the petitioner has overcome the rebuttable
24 presumption to which the respondent is entitled under Section 7 of this Act
25 and that the respondent will continue to present an immediate and present
26 danger of causing serious physical injury to self or others if permitted to
27 purchase, possess, receive, or have in his or her custody or control a

1 firearm.

2 (e) In determining whether to renew a crisis aversion and rights retention order
3 issued under Section 7 of this Act, the court shall consider all admissible
4 evidence presented by the petitioner and the respondent, and may also
5 consider other relevant evidence.

6 (f) The duration of each renewal of a crisis aversion and rights retention order
7 renewed under this subsection shall not exceed ninety (90) days.

8 (g) Nothing in this subsection shall prohibit a petitioner from requesting
9 additional renewals of a crisis aversion and rights retention order. Each
10 renewed crisis aversion and rights retention order issued by the court shall
11 not exceed ninety (90) days.

12 (h) A respondent to a renewed crisis aversion and rights retention order may
13 submit a written request to terminate any renewed order in accordance with
14 subsection (1) of this section.

15 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
16 TO READ AS FOLLOWS:

17 (1) Upon issuance of a crisis aversion and rights retention order, the court shall:

18 (a) Order the respondent to surrender to a law enforcement agency all firearms
19 in the respondent's custody or control, or which the respondent possesses;
20 and

21 (b) Direct a law enforcement agency having jurisdiction over the respondent to
22 conduct a reasonable search of available records in order to:
23 1. Identify adults living in the same household as the respondent; and
24 2. Provide notice to those adults that the respondent is prohibited from
25 having firearms in his or her custody, control, or possession while the
26 order is in effect.

27 (2) If an order becomes binding and effective upon a respondent:

- 1 (a) After personal service of the order by a law enforcement officer, the
2 respondent shall surrender all firearms to the control of the law
3 enforcement officer serving the order; or
4 (b) After the respondent is given notice of the existence and terms of the order
5 by a law enforcement officer or the court, the law enforcement officer or the
6 court shall inform the respondent of the time, place, and manner of the
7 surrender of all firearms subject to the order to a law enforcement officer.
8 (3) At the time of surrender, a law enforcement officer taking possession of a firearm
9 pursuant to a crisis aversion and rights retention order shall issue a receipt
10 identifying all firearms that have been surrendered and provide a copy of the
11 receipt to the respondent. The officer serving the order shall file the original
12 receipt with the court that issued the crisis aversion and rights retention order,
13 and shall ensure that the law enforcement agency retains a copy of the receipt.
14 (4) After firearms have been surrendered to a law enforcement agency pursuant to a
15 crisis aversion and rights retention order, the respondent or the rightful owner of
16 the firearm, as applicable, may petition the issuing court to order the law
17 enforcement agency to transfer the firearm to:
18 (a) A responsible party;
19 (b) An individual who possesses a valid federal firearms license issued under 18
20 U.S.C. sec. 923 for storage or an eventual lawful sale whose terms are
21 mutually agreed upon between the licensee and the respondent or rightful
22 owner, as applicable, with proceeds returned to the respondent or the
23 rightful owner; or
24 (c) The Department of Kentucky State Police under KRS 95.435 and 16.220, to
25 be sold at public auction under KRS 16.220.

26 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
27 TO READ AS FOLLOWS:

1 (1) A court that has probable cause to believe a respondent to a crisis aversion and
2 rights retention order possesses, or has in his or her custody or control firearms
3 that he or she has failed to surrender pursuant to Sections 1 to 17 of this Act, or
4 has received or purchased firearms while subject to the order, shall issue a search
5 warrant describing the firearms and authorizing a search of any location where
6 the firearms are reasonably believed to be and order the seizure of any firearms
7 discovered pursuant to the search.

8 (2) Firearms seized under this section shall be disposed of in accordance with KRS
9 500.090.

10 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
11 TO READ AS FOLLOWS:

12 (1) (a) A law enforcement agency storing a firearm surrendered under Section 4 or
13 Section 11 of this Act shall use reasonable care to ensure that the firearm is
14 not lost or damaged, and the law enforcement agency is prohibited from
15 permanently marking the firearm for identification or other purposes.

16 (b) A law enforcement agency shall be liable for any damage to or loss of the
17 firearm that results from the law enforcement agency's:
18 1. Negligence in the storage or handling of the firearm; or
19 2. Failure to comply with the duties imposed under Section 11 of this
20 Act.

21 (2) When a crisis aversion and rights retention order is terminated or expires, or
22 when a petition is dismissed under subsection (6) of Section 7 of this Act, a law
23 enforcement agency holding any firearm that has been surrendered under
24 Section 4 or 11 of this Act shall notify the respondent that he or she may request
25 the return of the firearm. A law enforcement agency shall return any surrendered
26 firearm requested by a respondent only after confirming, through a background
27 check, that the respondent is currently eligible to possess firearms.

1 (3) Any firearm which was surrendered by a respondent pursuant to Section 4 or 11
2 of this Act and that remains unclaimed or has not been transferred by the lawful
3 owner one (1) year after any crisis aversion and rights retention order has
4 expired or terminated, or that remains unclaimed or has not been transferred by
5 the lawful owner one (1) year following dismissal of any petition under
6 subsection (6) of Section 7 of this Act, shall be disposed of in accordance with
7 KRS 16.220.

8 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
9 TO READ AS FOLLOWS:

10 (1) A person who knowingly provides false information upon which a law
11 enforcement officer bases a petition for any crisis aversion and rights retention
12 order, with an intent to harass the respondent, is guilty of Class A misdemeanor.

13 (2) A person who knowingly purchases, receives, or has in his or her custody or
14 control a firearm with knowledge that he or she is prohibited from doing so by
15 any crisis aversion and rights retention order is guilty of a Class D felony.

16 (3) If a respondent who is subject to a crisis aversion and rights retention order has
17 transferred a firearm to a responsible party, and the responsible party
18 intentionally or wantonly allows the respondent access to any firearm with
19 knowledge that the respondent is restricted from possessing firearms under
20 Section 7, 11, or 15 of this Act, the responsible party is guilty of:

21 (a) A Class A misdemeanor;

22 (b) If the firearm is used by the respondent in the commission of a crime, a
23 Class D felony; or

24 (c) If the responsible party knows that the respondent is committing or intends
25 to commit a crime and the respondent uses the firearm:

26 1. A Class B felony when the crime attempted is a Class A felony; or

27 2. A Class C felony when the crime attempted is a Class B felony.

1 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
2 TO READ AS FOLLOWS:

3 *The Commonwealth of Kentucky shall recognize and enforce orders from other states*
4 *that are substantially similar to crisis aversion and rights retention orders, if:*

5 *(1) The order is filed with a court of competent jurisdiction within the*
6 *Commonwealth;*

7 *(2) The order is valid in the originating state at the time it is filed in this*
8 *Commonwealth under subsection (1) of this section; and*

9 *(3) In the case of an order from another state lasting more than fourteen (14) days,*
10 *the respondent was afforded an opportunity for a hearing in the originating state*
11 *prior to the order being issued.*

12 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
13 TO READ AS FOLLOWS:

14 *Nothing in Sections 1 to 17 of this Act shall be construed to authorize a warrantless*
15 *search or seizure by a law enforcement officer if a warrant would otherwise be*
16 *required.*

17 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 202D IS CREATED
18 TO READ AS FOLLOWS:

19 *Sections 1 to 17 of this Act shall not be construed to impose criminal or civil liability on*
20 *any person who chooses not to seek a crisis aversion and rights retention order.*

21 ➔Section 18. KRS 431.076 is amended to read as follows:

22 (1) (a) On or after July 15, 2020, if a court enters:

23 *1.* An order of acquittal of criminal charges against a person; ~~if, or enters~~

24 *2.* An order dismissing with prejudice all criminal charges in a case against
25 a person and not in exchange for a guilty plea to another charge; ~~or~~

26 *3. An order dismissing a petition for a crisis aversion and rights*
27 *retention order under Section 4 or 7 of this Act;*

1 the court shall order the record expunged upon the expiration of thirty (30)
2 days, unless the person objects to the expungement. As used in this paragraph,
3 "criminal charges" shall not include a traffic infraction not otherwise
4 classified as a misdemeanor. The order expunging the records shall not
5 require any action by the person.

6 (b) A person who has been charged with a criminal offense and who has been
7 acquitted of the charges, or against whom charges have been dismissed and
8 not in exchange for a guilty plea to another charge, and whose records have
9 not been expunged pursuant to paragraph (a) of this subsection, may petition
10 the court in which the disposition of the charges was made to expunge all
11 charges.

12 (c) A person against whom felony charges originally filed in the District Court
13 have not resulted in an indictment by the grand jury or in an information filed
14 by the Commonwealth's attorney may petition the District Court in which the
15 charges were filed to dismiss and expunge all charges for which an indictment
16 or information has not issued.

17 (2) An expungement petition brought under subsection (1)(b) or (c) of this section shall
18 be filed no sooner than:

19 (a) Sixty (60) days following the order of acquittal or dismissal with prejudice by
20 the court;

21 (b) Six (6) months following the date of the District Court decision to hold the
22 matter to the grand jury; or

23 (c) For charges dismissed without prejudice:

24 1. For felony charges, three (3) years following the date of the order of
25 dismissal without prejudice; or

26 2. For misdemeanor charges, one (1) year following the date of the order
27 of dismissal without prejudice.

- 1 (3) (a) If the court finds that the petition under subsection (1)(b) of this section is
2 properly brought, the court shall grant the petition and order the expunging of
3 the records.
- 4 (b) 1. If the expungement petition is brought under subsection (1)(c) of this
5 section, the petition shall be served upon the offices of the county and
6 Commonwealth's attorneys that prosecuted the case.
- 7 2. Following the filing of the petition, the court shall notify the county and
8 Commonwealth's attorneys of an opportunity for a response to the
9 petition. The response shall be filed within ninety (90) days after the
10 filing of the petition.
- 11 3. If a response is not filed, ninety (90) days after the filing of the petition
12 the court shall dismiss the charges without prejudice and order the
13 expunging of the records.
- 14 4. If a response is filed, ninety (90) days after the date the response is filed,
15 if an indictment has not issued, the court shall dismiss without prejudice
16 the charges for which an indictment has not issued and order the
17 expunging of the records.
- 18 (4) An order of expungement pursuant to this section shall expunge all criminal records
19 in the custody of the court and any criminal records in the custody of any other
20 agency or official, including law enforcement records, but no order of expungement
21 pursuant to this section shall expunge records in the custody of the Department for
22 Community Based Services. The court shall order the expunging on a form
23 provided by the Administrative Office of the Courts. Every agency, with records
24 relating to the arrest, charge, or other matters arising out of the arrest or charge, that
25 is ordered to expunge records, shall certify to the court within sixty (60) days of the
26 entry of the expungement order, that the required expunging action has been
27 completed. All orders enforcing the expungement procedure shall also be expunged.

- 1 (5) (a) If an expungement is ordered under subsection (1)(a) or (b) of this section, an
2 appellate court which issued an opinion in the case shall order the appellate
3 case file to be sealed and also direct that the version of the appellate opinion
4 published on the court's website~~[Web site]~~ be modified to avoid use of the
5 defendant's name in the case title and body of the opinion.
- 6 (b) If an expungement is ordered under subsection (1)(c) of this section, an
7 appellate court which issued an opinion in the case may, upon motion of the
8 petitioner in the case, order the appellate case file to be sealed and also direct
9 that the version of the appellate opinion published on the court's website~~[Web
10 site]~~ be modified to avoid use of the petitioner's name in the case title and
11 body of the opinion.
- 12 (6) After the expungement, the proceedings in the matter shall be deemed never to have
13 occurred. The court and other agencies shall delete or remove the records from their
14 computer systems so that any official state-performed background check will
15 indicate that the records do not exist. The court and other agencies shall reply to any
16 inquiry that no record exists on the matter. The person whose record is expunged
17 shall not have to disclose the fact of the record or any matter relating thereto on an
18 application for employment, credit, or other type of application.
- 19 (7) Inspection of the records included in the order may thereafter be permitted by the
20 court only upon petition by the person who is the subject of the records and only to
21 those persons named in the petition.
- 22 (8) Except as provided in subsection (1)(a) of this section, this section shall be
23 retroactive.