

1 AN ACT relating to the waiver of qualified official immunity.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
4 READ AS FOLLOWS:

5 **(1) Except as otherwise provided in subsection (2) of this section, it shall not be a**
6 **defense or immunity to any action brought against an employee or agent of a**
7 **public postsecondary education institution in his or her official capacity that the**
8 **employee or agent:**

9 **(a) Acted in good faith and within the scope of his or her employment or**
10 **authority in exercising discretion and judgment or personal deliberation in**
11 **performing an act or omission;**

12 **(b) Believed, reasonably or otherwise, that his or her conduct was lawful at the**
13 **time when it was committed; or**

14 **(c) Deprived legal rights, privileges, or immunities, by an act or omission, that**
15 **were not clearly established at the time of their deprivation, or that the state**
16 **of the law was otherwise such that the employee or agent could not**
17 **reasonably have been expected to know whether his or her conduct was**
18 **lawful.**

19 **(2) Subsection (1) of this section shall not apply to an employee or agent of public**
20 **postsecondary education institution who is acting in his or her official capacity as**
21 **a law enforcement officer as defined in KRS 15.310.**

22 ➔Section 2. KRS 164.6949 is amended to read as follows:

23 Nothing in KRS 164.6941 to 164.6951 shall be interpreted as:

24 (1) Waiving the immunity of any public postsecondary educational institution~~[-or its~~
25 ~~employees, agents, or authorized volunteers];~~

26 (2) Granting name, image, or likeness rights or requiring compensation for the use of
27 the name, image, or likeness of any student-athlete prior to March 9, 2022;

- 1 (3) Establishing student-athletes as employees or independent contractors of an
2 institution or an association; or
- 3 (4) Modifying the powers or waiving the rules or regulations of the Kentucky Board of
4 Education or the agency designated to manage interscholastic athletics under KRS
5 156.070.