

## CHAPTER 115

( SB 236 )

AN ACT relating to the protection of children.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

- (1) *A parent or legal guardian employing an individual to care for his or her minor child may request the results of a background check of the child abuse and neglect records maintained by the cabinet from the individual by submitting the same form and paying the same fee that would be submitted by an entity required by law to request such a background check on an employee or volunteer for the purpose of determining whether there has been a substantiated finding of child abuse or neglect for the child-care provider. The form shall contain the signature of the individual consenting to the background check.*
- (2) *The cabinet shall notify the individual on whom the background check was completed of the results.*
  - (a) *If the results show no substantiated findings of child abuse or neglect on the registry for the individual, the cabinet shall send the individual a letter stating that they have no findings of substantiated abuse or neglect.*
  - (b) *If the results show substantiated findings of child abuse or neglect on the registry for the individual, the cabinet shall send the individual the results of the search.*
- (3) *The cabinet shall make the form for requesting a background check of the child abuse and neglect records maintained by the cabinet available on its Web site along with information on how to locate a child-care provider certified or licensed by the cabinet and how to request a criminal background check for a child-care provider.*
- (4) *The cabinet shall promulgate administrative regulations to implement subsection (1) of this section.*

➔Section 2. KRS 160.151 is amended to read as follows:

- (1) (a) 1. A private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with ~~the provisions of~~ KRS 156.160(3) may require a national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** on all new certified hires in the school and student teachers assigned to the school and may require a new national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** on each certified teacher once every five (5) years of employment.
2. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** for previous employment may be excluded from the initial national or state criminal background checks.
- (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.
- (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative

Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

- (2) If a school requires a criminal background check *or requires a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AND A **LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS** AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."
- (a) For purposes of this subsection, "contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.
- (b) **1.** The school or school board may require a contractor *who works on school premises during school hours and may require a contractor who does not have contact with students, a volunteer, or a visitor* to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts *and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- 2.** Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police *if required*. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. *If a background check of child abuse and neglect records is requested, the person seeking employment shall provide to the hiring superintendent a letter from the Cabinet for Health and Family Services stating the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- 3.** Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3) *or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services*. A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.
- (b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing ~~the provisions of~~ this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check *or the receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- (c) Employment at a nonpublic school implementing ~~the provisions of~~ this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 *or the receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*

(d) Nonpublic schools implementing ~~the provisions of~~ this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 ***or the receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.***

(4) ***The form for requesting a letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.***

➔Section 3. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;

(b) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor;

(c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law; and

(d) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) Except as provided in KRS 160.346:

(a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing;

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days;

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district;

- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;
- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection; and
- (g) 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
2. No spouse of a principal shall be employed in the principal's school, except:
- a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
  - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.
- (4) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony *or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services*. The superintendent may employ, at his discretion, *except at a Kentucky Educational Collaborative for State Agency Children program*, persons convicted of sex crimes classified as a misdemeanor.
- (5) (a) A superintendent shall require a national and state criminal background check *and require a letter, provided by the individual, from the Cabinet for Health and Family Services indicating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check *and who have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* for the previous employment.
- (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation *and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is*

*clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*

- (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police, ~~and~~ the Federal Bureau of Investigation, **and the Cabinet for Health and Family Services** shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (6) (a) A superintendent shall require a ***national and*** state criminal background check ***and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** on all classified initial hires.
- (b) The superintendent shall require that each classified initial hire submit to a ***national and*** state criminal history background check by the Department of Kentucky State Police ***and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*** ~~[- If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.]~~
- (c) Any request for ***any criminal background*** records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under ~~the provisions of~~ paragraph (b) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police ***and the Cabinet for Health and Family Services*** shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7) (a) The superintendent ~~shall~~ <sup>may</sup> require a contractor ***who works on school premises during school hours and may require a contractor who does not have contact with students, a volunteer, or a visitor*** to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation ***and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.***
- (b) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. ***If requested,*** the results of the state criminal background check and the results of the national criminal history background check ~~[- if requested.]~~ ***and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services*** shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police ***and the Cabinet for Health and Family Services*** shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (8) (a) If a school term has begun and a certified or classified position remains unfilled 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 have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*** Application for the criminal record ***and a request for a letter, provided by the individual, from the Cabinet for Health and Family Services stating the***

*employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* 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 findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
  - (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
  - (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (9) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK **AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES** AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
- (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK **AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES** AS A CONDITION OF EMPLOYMENT."
- (c) Each application form for a district position shall require the applicant to:
1. Identify the states in which he or she has maintained residency, including the dates of residency; and
  2. Provide picture identification.
- (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (11) (a) A school-based decision-making council parent member, as defined under KRS 160.345, shall submit to a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation *and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- (b) The results of the state criminal history background check and the results of the national criminal history background check, if requested, *and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* shall be sent to the

district superintendent. Any fee charged by the Department of Kentucky State Police *and the Cabinet for Health and Family Services* shall be an amount no greater than the actual cost of processing the request and conducting the search. A parent member may serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.

- (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.
- (13) *Notwithstanding any law to the contrary, each certified and classified employee of the school district shall notify the superintendent if he or she has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal. Any failure to report this finding shall result in the certified or classified employee being subject to dismissal or termination.*
- (14) *The form for requesting a letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

*As used in Sections 4 to 7 of this Act:*

- (1) *"Criminal offense against a minor" means a conviction or a plea of guilty to any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:*
- (a) *Kidnapping, as in KRS 509.040, except by a parent;*
  - (b) *Unlawful imprisonment, as in KRS 509.020, except by a parent;*
  - (c) *Sexual misconduct as in KRS 510.140;*
  - (d) *Use of a minor in a sexual performance, as in KRS 531.310;*
  - (e) *Promoting a sexual performance of a minor, as in KRS 531.320;*
  - (f) *Possession or viewing matter portraying a sexual performance by a minor, as in KRS 531.335;*
  - (g) *Distribution of matter portraying a sexual performance by a minor, as in KRS 531.340;*
  - (h) *Promoting the sale of material portraying a sexual performance by a minor, as in KRS 531.350;*
  - (i) *Advertising material portraying a sexual performance by a minor, as in KRS 531.360;*
  - (j) *Using minors to distribute material portraying a sexual performance by a minor, as in KRS 531.370;*
  - (k) *Human trafficking involving commercial sexual activity, as in KRS 529.100;*
  - (l) *Promoting prostitution, as in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);*
  - (m) *Unlawful transaction with a minor in the first degree, as in KRS 530.064(1)(a);*
  - (n) *Any attempt to commit any of the offenses described in paragraphs (a) to (m) of this subsection; or*
  - (o) *Solicitation to commit any of the offenses described in paragraphs (a) to (m) of this subsection;*
- (2) *"Sex crime" means a conviction or a plea of guilty to any of the following offenses:*
- (a) *Rape in the first degree as in KRS 510.040;*

- (b) *Rape in the second degree as in KRS 510.050;*
  - (c) *Rape in the third degree as in KRS 510.060;*
  - (d) *Sodomy in the first degree as in KRS 510.070;*
  - (e) *Sodomy in the second degree as in KRS 510.080;*
  - (f) *Sodomy in the third degree as in KRS 510.090;*
  - (g) *Sodomy in the fourth degree as in KRS 510.100;*
  - (h) *Sexual abuse in the first degree as in KRS 510.110;*
  - (i) *Sexual abuse in the second degree as in KRS 510.120;*
  - (j) *Sexual abuse in the third degree as in KRS 510.130;*
  - (k) *Indecent exposure in the first degree as in KRS 510.148;*
  - (l) *Indecent exposure in the second degree as in KRS 510.150;*
  - (m) *Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities as in KRS 510.155; or*
  - (n) *Incest as in KRS 530.020;*
- (3) *"Violent offender" means any person who has been convicted of or who has entered a plea of guilty to the commission of a capital offense, Class A felony, Class B felony involving the death of the victim or serious physical injury to the victim, or rape in the first degree, or sodomy in the first degree; and*
- (4) *"Youth camp" or "camp" means:*
- (a) *Any camp required pursuant to KRS 211.180 to obtain a permit to operate; and*
  - (b) *Any program offered, whether free or for a fee, for recreational, educational, sports training, or vacation purposes to children under eighteen (18) years of age that a child attends outside the presence of his or her parent or legal guardian.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

*Sections 4 to 7 of this Act shall not apply to:*

- (1) *Public school districts or programs sponsored by the school district;*
- (2) *Private schools;*
- (3) *Child-care centers, child-caring and child-placing agencies; family child-care homes; and foster care, relative caregiver services or adoptive homes otherwise governed by KRS Chapter 199; or*
- (4) *Babysitting or child-care arrangements made by a child's parent or guardian and occurring within a private home.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *A youth camp that receives public funds shall not employ, contract, or utilize as a volunteer, in any position, any person who has been convicted of or who has entered a plea of guilty to a criminal offense against a minor or a sex crime, who is a violent offender, or who has been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.*
- (2) *Prior to employing, contracting with, or allowing volunteer work, each youth camp that receives public funds shall obtain from the Justice and Public Safety Cabinet a national and state criminal background check of the applicant, contractor, or volunteer prior to the individual's presence at the camp or involvement in any program of the camp.*
- (3) *Prior to employing, contracting with, or allowing volunteer work, each youth camp that receives public funds shall require applicants to obtain a letter from the Cabinet for Health and Family Services stating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services of the applicant, contractor, or volunteer prior to the individual's presence at the camp or involvement in any program of the camp.*



- (4) *Each application form provided by a youth camp that receives public funds to an applicant or volunteer shall in a prominent place and legible font conspicuously state the following: "STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT OR INVOLVEMENT IN THIS PROGRAM."*
- (5) *Any request for records under this section shall be on a form approved by the Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.*
- (6) *This section shall apply to all applicants and volunteers in a position which involves supervisory or disciplinary power over a minor.*
- (7) *This section shall not be construed to prohibit an exempted organization from requiring its employees, contractors, or volunteers to submit to a background check. Youth camps that do not receive public funds may require its employees, contractor, or volunteers to submit to a criminal background check and to have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the individual has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- (8) *This section shall not be construed to require a youth camp that receives public funds to employ, contract with, or allow volunteering by, an individual solely on the basis of an acceptable criminal background check.*
- (9) *This section shall not limit the ability of a youth camp that receives public funds to establish a more stringent background check process for its employees, contractors, or volunteers regarding other criminal offenses which, in the discretion of the youth camp that receives public funds, would disqualify the individual from involvement with the youth camp.*
- (10) *The form for requesting a letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *Failure to comply with Section 6 of this Act will result in immediate suspension of the entity's permit until compliance is obtained.*
- (2) *If any employee, contractor, or volunteer is discovered to be a violent offender or has been convicted of a sex crime or a criminal offense against a minor, or has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal, he or she shall be immediately terminated from participation with the program and removed from the property.*
- (3) *Any person who owns or operates a youth camp that receives public funds and who knowingly allows an individual to serve or continue to serve as an employee, contractor, or volunteer despite a conviction or offense specified in this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.*

➔Section 8. Sections 2 through 7 of this Act shall take effect July 1, 2018.

**Signed by Governor March 27, 2017.**