

## CHAPTER 189

( HB 193 )

AN ACT relating to peace officers.

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

➔Section 1. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
  - (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
    1. A state, county, city, or federal peace officer;
    2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
    3. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job-related duties;
    4. Paid or volunteer emergency medical services personnel certified or licensed pursuant to KRS Chapter 311A, if the event occurs while personnel are performing job-related duties;
    5. A paid or volunteer member of an organized fire department, if the event occurs while the member is performing job-related duties;
    6. Paid or volunteer rescue squad personnel affiliated with the Division of Emergency Management of the Department of Military Affairs or a local disaster and emergency services organization pursuant to KRS Chapter 39F, if the event occurs while personnel are performing job-related duties;
    7. A probation and parole officer;
    8. A transportation officer appointed by a county fiscal court or legislative body of a consolidated local government, urban-county government, or charter government to transport inmates when the county jail or county correctional facility is closed while the transportation officer is performing job-related duties;
    9. A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or
    10. A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district;~~[-or]~~
  - (b) Being a person confined in a detention facility, or ***a juvenile in a*** state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility; ***or***
  - (c) ***Intentionally causes a person, whom the actor knows or reasonably should know to be a peace officer discharging official duties, to come into contact with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the consent of the peace officer.***
- (2) (a) ***For violations of paragraphs (a) and (b) in subsection (1) of this section,*** assault in the third degree is a Class D felony.
- (b) ***For violations of paragraph (c) in subsection (1) of this section, assault in the third degree is a Class B misdemeanor, unless the assault is with saliva, vomit, mucus, blood, seminal fluid, urine, or feces from an adult who knows that he or she has a serious communicable disease and competent medical***

*or epidemiological evidence demonstrates that the specific type of contact caused by the actor is likely to cause transmission of the disease or condition, in which case it is a Class A misdemeanor.*

- (c) *As used in paragraph (b) of this subsection, "serious communicable disease" means a non-airborne disease that is transmitted from person to person and determined to have significant, long-term consequences on the physical health or life activities of the person infected.*

➔Section 2. KRS 431.015 is amended to read as follows:

- (1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a citation instead of making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.
- (b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor committed in his or her presence if the misdemeanor is:
  1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010, 511.050, 511.085, 514.110, or 523.110;
  2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or
  3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.
- (c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785 or an order of protection as defined in KRS 456.010.
- (d) A peace officer may make an arrest or may issue a citation for a violation of KRS 508.030 which occurs in a hospital pursuant to KRS 431.005(1)(f).
- (2) A peace officer may issue a citation instead of making an arrest for a violation committed in his or her presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his or her presence or a violation of KRS 189A.010, not committed in his or her presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).
- (3) *A peace officer may issue a citation when he or she has probable cause to believe that the person being issued the citation has committed a misdemeanor outside of his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.*
- (4) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he or she will not appear, a complaint may be made before a judge and a warrant shall issue.
- (5)~~(4)~~ When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

**Signed by Governor April 26, 2018.**