

CHAPTER 194

(HB 223)

AN ACT relating to the Department of Kentucky State Police and declaring an emergency.

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

➔Section 1. KRS 15.525 is amended to read as follows:

- (1) A law enforcement agency may create a program to refer persons to treatment for substance use who voluntarily seek assistance from the law enforcement agency.
- (2) A person voluntarily seeking assistance through a program created pursuant to this section:
 - (a) Shall not be placed under arrest;
 - (b) Shall not be prosecuted for the possession of any controlled substance *or drug* ~~[-]~~ paraphernalia~~[-]~~ ~~or other item~~ surrendered to the law enforcement agency. Items surrendered pursuant to this paragraph shall be recorded by the law enforcement agency at the time of surrender and shall be destroyed; *and*
 - (c) ~~[-]~~ ~~Shall be paired immediately with a volunteer mentor to assist his or her recovery; and~~
 - ~~(d) [-]~~ Shall be *promptly* ~~immediately~~ referred to a community mental health center, medical provider, or other entity for substance use treatment.
- (3) A person is ineligible for placement through a program established pursuant to this section if the person:
 - (a) Has an outstanding arrest warrant *issued by a Kentucky court or an extraditable arrest warrant issued by a court of another state*;
 - (b) *Places law enforcement or its representatives in reasonable apprehension of physical injury* ~~[-]~~ ~~Has been convicted of three (3) or more drug related offenses~~; or
 - (c) Is under the age of eighteen (18) and does not have the consent of a parent or guardian.
- (4) *Information gathered by a program created pursuant to this section related to a person who has voluntarily sought assistance under this section is exempt from disclosure under the Kentucky Open Records Act pursuant to KRS 61.878(1)(a)* ~~[-]~~ ~~Programs created pursuant to this section may be called an Angel Initiative Program~~.
- (5) *Except for intentional misconduct, any law enforcement agency or person that provides referrals or services in accordance with subsection (2) of this section shall be immune from criminal and civil liability.*

➔Section 2. KRS 16.055 is amended to read as follows:

- (1) Promotions to sergeant within the department shall be on the following terms and conditions:
 - (a) The applicant must have served six (6) years of continuous service as a commissioned State Police officer to be eligible for promotion to sergeant;
 - (b) *The applicant may be excluded from promotion eligibility by the commissioner for up to thirty-six (36) months on the basis of substantiated misconduct, as set forth in department policy*;
 - (c) Promotions shall be based on cumulative scores computed from twenty-five percent (25%) on personnel performance evaluation, thirty percent (30%) on job simulation examination, and forty-five percent (45%) on a written examination on which the applicant achieved at least a minimum score as determined by the commissioner in consultation with the Kentucky State Police Promotional Review Board;
 - ~~(d) [-]~~ The promotional list shall be valid for one (1) year, shall consist of the numerical scores and rankings of each applicant, and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

- (e)~~(d)~~ The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his or her staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken and the minimum score required to be eligible for placement on the promotional list;
- (f)~~(e)~~ The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his or her numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%), provided that the numerical score meets or exceeds the minimum score set in paragraph (d) of this subsection for the current year's promotional list;
- (g)~~(f)~~ The job simulation examination shall be evaluated by boards designated by the commissioner consisting of the commissioner or his or her designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing;
- (h)~~(g)~~ The designated job simulation examination boards will perform all evaluations under guidelines developed and approved by the commissioner; and
- (i)~~(h)~~ Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.
- (2) Promotions from sergeant to lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.
- (3) Promotions from lieutenant to captain within the department shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.
- (4) The department will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.
- (5) Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year of continuous service from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period. ***If reverted to a previous rank, an individual is ineligible for promotion the next time the promotional process is offered.***
- (6) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.
- (7) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.
- (8) No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.
- (9) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.

➔Section 3. KRS 16.198 is amended to read as follows:

The appointment, salary, benefits, and number of individuals employed as a Trooper R Class and CVE R class shall be as follows:

- (1) The commissioner may appoint CVE R Class employees. CVE R Class employees shall serve on a contractual basis for a term of one (1) year, and the contract may be renewed annually, by agreement of the parties, for no

more than nine (9) additional one (1) year terms. *A CVE R Class employee shall be required to pass a physical fitness test every three (3) years.*

- (2) The commissioner may appoint Trooper R Class employees who shall serve on a contractual basis for a term of one (1) year. The contract may be renewed on an annual basis upon the agreement of both parties. A Trooper R Class employee shall be required to pass a physical fitness test every three (3) years.
- (3) The compensation for Trooper R Class employees and CVE R Class employees shall be established by administrative regulation promulgated pursuant to KRS Chapter 13A.
- (4)
 - (a) All appointments of individuals employed as a Trooper R Class and CVE R Class shall be based upon agency need as determined by the commissioner.
 - (b) Work stations for individuals employed as a Trooper R Class and CVE R Class shall be determined by agency need with consideration given to the applicant's stated preference.
 - (c) Merit of individuals employed as a Trooper R Class and CVE R Class shall be determined by the applicant's work performance history.
 - (d) Fitness of individuals employed as a Trooper R Class and CVE R Class shall be determined by the applicant's ability to adhere to the agency standards set by the commissioner under this chapter.
- (5) The number of individuals employed as a Trooper R Class and CVE R Class by the department shall not:
 - (a) Exceed one hundred (100); or
 - (b) Be counted in the total employee cap for the department.
- (6) All individuals employed as a Trooper R Class and CVE R Class shall be assigned the job duties of trooper or commercial vehicle enforcement officer and shall not be placed in any supervisory positions ~~or special work assignments~~.
- (7) Notwithstanding any provision of KRS 16.505 to 16.652, KRS 18A.005 to 18A.228, and KRS 61.510 to 61.705 to the contrary:
 - (a) Individuals employed as a Trooper R Class and CVE R Class shall continue to receive all retirement and health insurance benefits provided by the systems administered by Kentucky Retirement Systems to which they were entitled upon retiring from the department as a commissioned officer under this chapter;
 - (b) Individuals employed as a Trooper R Class and CVE R Class shall not be eligible to receive health insurance coverage or benefits through the department and shall not be eligible to participate in the State Police Retirement System or the Kentucky Employees Retirement System; and
 - (c) The department shall not pay health insurance contributions to the state health insurance plan for individuals employed as a Trooper R Class or CVE R Class.
- (8) Individuals employed as a Trooper R Class or CVE R Class shall be employed on a contractual basis and shall be provided due process pursuant to KRS 16.140 or 16.192 for any disciplinary action imposed by the commissioner. A decision by the commissioner to not renew a contract shall not be considered a disciplinary action for purposes of this section.
- (9) The provisions of this section shall not eliminate or reduce any requirements under KRS 61.637 for the department to pay employer contributions to the retirement systems or to reimburse the retirement systems for the cost of retiree health, on any individual employed as a Trooper R Class or CVE R Class.

➔Section 4. KRS 61.906 is amended to read as follows:

In order to qualify for a commission as a special law enforcement officer under KRS 61.900 to 61.930, an individual must present satisfactory evidence of compliance with the following conditions and requirements:

- (1) No person shall be eligible for a commission who:
 - (a) Has been dishonorably discharged from the Armed Forces of the United States;
 - (b) Has been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he *or she* has not received a full pardon;

- (c) Has been convicted of any other offense or offenses more than five (5) times within the previous three (3) years;
 - (d) Has by any court of competent jurisdiction been declared mentally disabled by reason of an intellectual disability or disease and has not been restored; or
 - (e) Suffers from habitual drunkenness or from narcotics addiction or dependence, or from any physical defect or deficiency which the secretary determines to materially impair the applicant's ability to perform the duties of a special law enforcement officer.
- (2) Every person to be eligible for a commission shall:
- (a) Have reached his *or her* twenty-first birthday;
 - (b) Provide, on forms supplied by the secretary, such information pertaining to himself as may reasonably be requested thereon, including, but not limited to his: name; age; date of birth; current address and employment; prior addresses and employment for the past ten (10) years; aliases, if any; arrest and conviction record, if any; Social Security number; fingerprints; photographs; and general physical description. The accuracy of such information shall be attested by the applicant and his *or her* attestation shall be notarized by one authorized to administer oaths;
 - (c) Be of good moral character;
 - (d) Provide references from two (2) reputable ~~individuals~~~~[residents of the Commonwealth]~~ who are not related to him *or her* and who have known him *or her* well for a period of not less than three (3) years, attesting to his *or her* good character;
 - (e) Pay the fees provided in KRS 61.908; and
 - (f) Provide evidence satisfactory to the secretary that he *or she* meets the following requirements:
 1. Is a graduate of an accredited high school or of an equivalent technical or vocational training or education program satisfactory to the secretary; or holds a High School Equivalency Diploma; provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of this subsection;
 2. Has successfully completed not fewer than eighty (80) hours of training in a program approved by the council and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; or has been employed as a full-time sworn public peace officer for a period of not less than one (1) year within the past five (5) years, and has never been discharged for cause from employment as a sworn public peace officer; or has been employed in a full-time capacity as a military policeman engaged in law enforcement for the United States Armed Forces for a period of not less than one (1) year within the past five (5) years; or has successfully completed a written, oral and practical examination approved by the council and dealing comprehensively with the subject matter of criminal law and the law of arrest, search and seizure; and
 3. Demonstrates, in written and practical examinations approved by the council, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid. Provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of these subsections.

➔Section 5. Whereas recruitment is vital to the Department of Kentucky State Police in fulfilling its mission and substance abuse treatment programs are a critical part of aiding the residents of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming law.

Signed by Governor April 9, 2019.