

## CHAPTER 97

## ( HB 298 )

AN ACT relating to police pursuit policies and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "law enforcement agency" means:*
- (a) *Any public agency that employs a police officer as defined in KRS 15.420 or a special law enforcement officer as defined in KRS 61.900;*
  - (b) *Any public agency that is composed of or employs other public peace officers; and*
  - (c) *Any elected or appointed peace officer who is authorized to exercise powers of a peace officer as defined in KRS 446.010.*
- (2) *On or before January 1, 2021, each law enforcement agency of this state shall adopt, implement, enforce, and maintain written policies that establish standards and procedures for the vehicular pursuit of any person who has violated or is suspected of violating the laws of this state. The policy shall create guidelines for determining when the interests of public safety and effective law enforcement justify the initiation or termination of a vehicular pursuit. The policy shall address the following subjects:*
- (a) *The definition of pursuit that will be governed under the law enforcement agency's policy;*
  - (b) *Decision-making criteria or principles that are designed to assist peace officers in determining whether to initiate a pursuit. The criteria or principles may include but shall not be limited to:*
    - 1. *The potential for harm or potential danger to others if the fleeing individual evades or escapes immediate custody;*
    - 2. *The seriousness of the offense committed or believed to be committed, by the fleeing individual or individuals, prior to the officer activating emergency equipment;*
    - 3. *If the officer has a reasonable and articulable suspicion that the driver or an occupant of the vehicle in which they are fleeing represent a clear and present danger to the public safety;*
    - 4. *Safety factors that pose a risk to peace officers, other motorists, pedestrians, or other third parties;*
    - 5. *Vehicular or pedestrian traffic safety and volume;*
    - 6. *Weather and vehicle conditions;*
    - 7. *Potential speeds of the pursuit; and*
    - 8. *Consideration of whether the identity of an offender is known and could be apprehended at a later time;*
  - (c) *Responsibilities of the pursuing peace officer or officers, including pursuit tactics and when those tactics are appropriate for use by the officer or officers;*
  - (d) *Procedures for designating the primary pursuit vehicle and for determining the total number of vehicles that are permitted to participate at one (1) time in the pursuit;*
  - (e) *Coordination of communications during the pursuit, including but not limited to responsibilities of the pursuing officer to communicate with his or her communications center at the commencement of a pursuit regarding the location, direction of travel, reason for the pursuit, and ongoing status reporting during the pursuit;*
  - (f) *A requirement that there is supervisory control of the pursuit, including the responsibilities of command staff or other supervisors during the pursuit, if a supervisor is available;*
  - (g) *The circumstances and conditions where the use of pursuit intervention tactics, including but not limited to blocking, ramming, boxing, and roadblock procedures may be employed;*

- (h) *Decision-making criteria or principles that are designed to assist peace officers in making an ongoing determination during the course of the pursuit of whether to continue the pursuit or to terminate or discontinue it. The criteria or principles may include but shall not be limited to:*
1. *The potential for harm or potential danger to others if the fleeing individual evades or escapes immediate custody;*
  2. *The seriousness of the offense committed or believed to have been committed by the individual or individuals that are fleeing;*
  3. *Safety factors that pose a risk to peace officers, other motorists, pedestrians, or other third parties;*
  4. *Vehicular or pedestrian traffic safety and volume;*
  5. *Weather and vehicle conditions;*
  6. *Speeds of the pursuit;*
  7. *Consideration of whether the identity of an offender is known and could be apprehended at a later time; or*
  8. *Where the officer has a reasonable and articulable suspicion that the driver or an occupant of the vehicle in which they are fleeing represent a clear and present danger to the public safety;*
- (i) *Procedures for coordinating the pursuit with other law enforcement agencies, including procedures for interjurisdictional pursuits; and*
- (j) *A process for reporting and evaluating each pursuit by the law enforcement agency.*
- (3) *The policy adopted by a law enforcement agency may be a model policy that has been endorsed by a national or state organization if the model complies with subsection (2) of this section and other laws of this Commonwealth.*
- (4) *Upon the initial adoption of the policy, a law enforcement agency shall cause a full copy of its policy to be filed with the Justice and Public Safety Cabinet, which shall maintain a list of law enforcement agencies that have complied with the requirements of this section.*
- (5) *Each law enforcement agency shall receive and maintain written confirmation from each officer in its employment that he or she has received a copy of the policy, and that he or she has received instruction or training specific to the law enforcement agency's policy.*
- (6) *Any policy adopted pursuant to this section shall be reviewed annually and may be revised at any time by the agency adopting it. The agency shall cause a full copy of any revised policy to be filed with the Justice and Public Safety Cabinet within ten (10) days of its adoption.*
- (7) *The requirements of this section are solely intended to direct law enforcement agencies to adopt, implement, enforce, and maintain written vehicular pursuit policies and outline the subjects of these policies. This section shall not be interpreted or construed to:*
- (a) *Mandate the actions of individual peace officers of a law enforcement agency during any particular pursuit;*
  - (b) *Restrict a law enforcement agency from adopting additional policy requirements, including policies that limit or prohibit vehicular pursuits; or*
  - (c) *Create any civil liability upon peace officers, law enforcement agencies, or any public agency for the process of creating the vehicular pursuit policies or the process of documenting compliance with the vehicular pursuit policies.*

➔Section 2. KRS 15.440 is amended to read as follows:

- (1) Each unit of government that meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
- (a) Employs one (1) or more police officers;
  - (b) Pays every police officer at least the minimum federal wage;

- (c) Requires all police officers to have, at a minimum, a high school degree, or its equivalent as determined by the council, except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection;
- (d)
  - 1. Requires all police officers to successfully complete a basic training course of nine hundred twenty-eight (928) hours' duration within one (1) year of the date of employment at a school certified or recognized by the council, which may provide a different number of hours of instruction as established in this paragraph, except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection.
  - 2. As the exclusive method by which the number of hours required for basic training courses shall be modified from that which is specifically established by this paragraph, the council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, explicitly set the exact number of hours for basic training at a number different from nine hundred twenty-eight (928) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis.
  - 3. If the council sets an exact number of hours different from nine hundred twenty-eight (928) in an administrative regulation as provided by this paragraph, it shall not further change the number of hours required for basic training without promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.
  - 4. Nothing in this paragraph shall be interpreted to prevent the council, pursuant to its authority under KRS 15.330, from approving training schools with a curriculum requiring attendance of a number of hours that exceeds nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation as provided by subparagraphs 2. and 3. of this paragraph. However, the training programs and schools for the basic training of law enforcement personnel conducted by the department pursuant to KRS 15A.070 shall not contain a curriculum that requires attendance of a number of hours for basic training that is different from nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation promulgated by the council pursuant to the provisions of KRS Chapter 13A as provided by subparagraphs 2. and 3. of this paragraph.
  - 5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph to the contrary notwithstanding, the council may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, approve basic training credit for:
    - a. Years of service credit as a law enforcement officer with previous service in another state; and
    - b. Basic training completed in another state;
- (e) Requires all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of the officer's police department, of forty (40) hours' duration, ~~of which the number of hours shall not be changed by the council,~~ at a school certified or recognized by the council, **which may include a four (4) hour course which meets the requirements of paragraph (j) of this subsection.** This **in-service training** requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;
- (f) Complies with all provisions of law applicable to police officers or police departments, including transmission of data to the centralized criminal history record information system as required by KRS 17.150 and transmission of reports as required by KRS 15.391;
- (g) Complies with all rules and regulations, appropriate to the size and location of the police department issued by the cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;
- (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that has been approved by the cabinet. The policy shall comply with the provisions of KRS

403.715 to 403.785. The policy shall include a purpose statement; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Health and Family Services, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records;~~and~~

- (i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards provided by, and has been approved by, the cabinet, and which includes:
  1. A requirement that evidence collected as a result of an examination performed under KRS 216B.400 be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;
  2. A requirement that evidence received from a collecting facility relating to an incident which occurred outside the jurisdiction of the police department be transmitted to a police department with jurisdiction within ten (10) days of its receipt by the police department;
  3. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to the Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the police department;
  4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and
  5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples, and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a suspect is apprehended or the office of the Commonwealth's attorney consents to the notification, but shall not automatically require the disclosure of the identity of any person to whom the evidence matched; *and*
- (j) ***Requires all police officers to successfully complete by December 31, 2022, and every two (2) years thereafter a training course, certified by the council, of not less than four (4) hours in emergency vehicle operation.***
- (2) A unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund only if the police department of the unit of government remains in compliance with the requirements of this section.
- (3) Deputies employed by a sheriff's office shall be eligible to participate in the distribution of funds from the Law Enforcement Foundation Program fund regardless of participation by the sheriff.
- (4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

➔Section 3. KRS 186.560 (Effective July 1, 2020) is amended to read as follows:

- (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his or her:
  - (a) Conviction of any of the following offenses:
    1. Murder or manslaughter resulting from the operation of a motor vehicle;
    2. Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;
    3. Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;
    4. Any felony in the commission of which a motor vehicle is used;
    5. Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

6. Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;
  7. Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;
  8. Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;
  9. Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085(4); ~~and~~
  10. Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410; ~~and~~
  - 11. Conviction of fleeing or evading police in the second degree when the offense involved the operation of a motor vehicle; or**
    - (b) Being found incompetent to stand trial under KRS Chapter 504.
- (2) If the person convicted of any offense named in subsection (1) of this section or who is found incompetent to stand trial is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.
  - (3) The cabinet, upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied, or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.
  - (4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a)1. of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.
  - (5) Except as provided in subsections (3), (4), (8), and (9) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year. If the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or 244.085(4) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.
  - (6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension pursuant to KRS Chapter 189A, the person whose license is suspended shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended licenses.
  - (7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

- (8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(a)8. or 9. of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.
- (9) A revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section due to a person being found incompetent to stand trial shall extend until the person is found competent to stand trial or the criminal case is dismissed.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

*Each law enforcement agency or other employing agency whose officers are required to meet the training requirements of subsection (1)(j) of Section 2 of this Act shall retain a record of each of its officers having met the biennial training. These records shall be made available upon request to the Kentucky Law Enforcement Council and to the Justice and Public Safety Cabinet.*

➔Section 5. Section 1 of this Act may be cited as Jill's Law.

**Signed by Governor April 24, 2020.**