

CHAPTER 143**(SB 245)**

AN ACT relating to protective orders.

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

➔Section 1. KRS 403.740 is amended to read as follows:

(1) Following a hearing ordered under KRS 403.730, if a court finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur, the court may issue a domestic violence order:

(a) Restraining the adverse party from:

1. Committing further acts of domestic violence and abuse;
2. Any unauthorized contact or communication with the petitioner or other person specified by the court;
3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;
4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and
5. Disposing of or damaging any of the property of the parties;

(b) *Authorizing, at the request of the petitioner:*

1. *Limited contact or communication between the parties that the court finds necessary; or*
2. *The parties to remain in a common area, which may necessitate them being closer than five hundred (500) feet under limited circumstances with specific parameters set forth by the court.*

Nothing in this paragraph shall be interpreted to place any restriction or restraint on the petitioner;

(c)~~(b)~~ Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, except that the court shall not order the petitioner to take any affirmative action;

(d)~~(c)~~ Directing that either or both of the parties receive counseling services available in the community in domestic violence and abuse cases; and

(e)~~(d)~~ Additionally, if applicable:

1. Directing the adverse party to vacate a residence shared by the parties to the action;
2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody, subject to KRS 403.315; and
3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary child support.

(2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:

- (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;
- (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
- (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
- (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.

- (3) When temporary child support is granted under this section, the court shall enter an order detailing how the child support is to be paid and collected. Child support ordered under this section may be enforced utilizing the same procedures as any other child support order.
- (4) A domestic violence order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.

➔Section 2. KRS 403.730 is amended to read as follows:

- (1) (a) The court shall review a petition for an order of protection immediately upon its filing. If the review indicates that domestic violence and abuse exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.
- (b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.
- (2) (a) If the review under this section also indicates the presence of an immediate and present danger of domestic violence and abuse, the court shall, ***upon the filing of the petition***~~upon proper motion~~, issue ex parte an emergency protective order that:
1. Authorizes relief appropriate to the situation utilizing the alternatives set out in KRS 403.740, other than awarding temporary support or counseling;
 2. ***Sets forth which communications, if any, as requested by the petitioner, are authorized and which communications are unauthorized;***
 3. ***Allows either party to retrieve his or her personal belongings from the parties' shared residence and directs law enforcement to assist, if requested;***
 4. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and
 - 5.~~{3}~~ Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:
 - a. The petitioner's request is voluntary and not the result of coercion; and
 - b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.
- Nothing in this paragraph shall be interpreted to place any restriction or restraint on the petitioner.***
- (b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

➔Section 3. KRS 456.060 is amended to read as follows:

- (1) Following a hearing ordered under KRS 456.040, if a court finds by a preponderance of the evidence that dating violence and abuse, sexual assault, or stalking has occurred and may again occur, the court may issue an interpersonal protective order:
- (a) Restraining the adverse party from:
1. Committing further acts of dating violence and abuse, stalking, or sexual assault;
 2. Any unauthorized contact or communication with the petitioner or other person specified by the court;
 3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;
 4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and
 5. Disposing of or damaging any of the property of the parties;

(b) *Authorizing, at the request of the petitioner:*

1. *Limited contact or communication between the parties that the court finds necessary; or*
2. *The parties to remain in a common area, which may necessitate them being closer than five hundred (500) feet under limited circumstances with specific parameters set forth by the court.*

Nothing in this paragraph shall be interpreted to place any restriction or restraint on the petitioner;

(c)~~(b)~~ Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of dating violence and abuse, stalking, or sexual assault, except that the court shall not order the petitioner to take any affirmative action; and

(d)~~(c)~~ Directing that either or both of the parties receive counseling services available in the community in dating violence and abuse cases.

(2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:

- (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;
- (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
- (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
- (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.

(3) An interpersonal protective order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.

➔Section 4. KRS 456.040 is amended to read as follows:

- (1) (a) The court shall review a petition for an interpersonal protective order immediately upon its filing. If the review indicates that dating violence and abuse, stalking, or sexual assault exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.
- (b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.
- (2) (a) If the review under this section also indicates the presence of an immediate and present danger of dating violence and abuse, sexual assault, or stalking, the court shall, ***upon the filing of the petition***~~upon proper motion~~, issue ex parte a temporary interpersonal protective order that:
 1. Authorizes relief appropriate to the situation utilizing the alternatives set out in KRS 456.060;
 2. ***Sets forth which communications, if any, as requested by the petitioner, are authorized and which communications are unauthorized;***
 3. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and
 - 4.~~(3)~~ Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:
 - a. The petitioner's request is voluntary and not the result of coercion; and
 - b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.

Nothing in this paragraph shall be interpreted to place any restriction or restraint on the petitioner.

- (b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

Signed by Governor April 8, 2022.