

452.005 Venue for civil claims against the Commonwealth -- Change of venue -- Certification of service on Attorney General -- Notice -- Legislative intent -- Requirement of consent to be named as party -- Legislative immunity or privilege. (See LRC Note below)

- (1) Except as provided in KRS 5.005 and 286.12-135, and notwithstanding any other statute to the contrary, the venue for any civil action that:
 - (a) Challenges the constitutionality of a Kentucky:
 1. Statute;
 2. Executive order;
 3. Administrative regulation; or
 4. Order of any cabinet, program cabinet, or department established under KRS Chapter 12;
 - (b) Includes a claim for declaratory judgment or injunctive relief; and
 - (c) Is brought individually, jointly, or severally against:
 1. Any state official or state officer in his or her official capacity, including any public servant as defined in KRS 11A.010;
 2. Any body, subdivision, caucus, committee, or member of the General Assembly, or the Legislative Research Commission; or
 3. Any agency of the state as defined in KRS 11A.010;shall be as provided in this section and KRS 452.010 and 452.030.
- (2)
 - (a) A plaintiff who is a resident of Kentucky shall file a complaint or petition in the office of the Circuit Court clerk in the county where the plaintiff resides. If more than one (1) plaintiff is a party to the action, the complaint or petition may be filed in any county where any plaintiff resides.
 - (b) A plaintiff who is not a resident of Kentucky shall file a complaint or petition in the Franklin Circuit Court.
- (3) The plaintiff shall certify in the complaint or petition filed under this section that a copy of the complaint or petition has been served upon the Attorney General before or at the time of filing, and the Attorney General shall be entitled to be heard.
- (4) In any appeal to the Kentucky Court of Appeals or Supreme Court, or the federal appellate courts in any forum that involves the constitutional validity of a statute, executive order, administrative regulation, or order of any cabinet, program cabinet, or department established under KRS Chapter 12, the Attorney General shall, before the filing of the appellant's brief, be served with a copy of the pleading, paper, or other document that initiates the appeal in the appellate forum. This notice shall specify the challenged statute, executive order, administrative regulation, or order of a cabinet, program cabinet, or department established under KRS Chapter 12, and the nature of the alleged constitutional defect.
- (5) The Attorney General shall notify the Legislative Research Commission of:
 - (a) The receipt of a complaint or petition and the nature of any proceedings involving the validity of any statute or regulation, or order of a cabinet, program cabinet, or department established under KRS Chapter 12; and

- (b) The entering of a final judgment in those proceedings, if the Attorney General is a party to the action.
- (6) To protect the rights of the citizens of the Commonwealth of Kentucky as guaranteed by the Constitution of Kentucky, it is the intent of the General Assembly that any action brought or pursued under this section be given priority and prosecuted in an expeditious manner.
- (7) Pursuant to Sections 43 and 231 of the Constitution of Kentucky, members of the General Assembly, organizations within the legislative branch of state government, or officers or employees of the legislative branch shall not be made parties to any action challenging the constitutionality or validity of any statute or regulation, without the consent of the member, organization, or officer or employee.
- (8) Nothing in this section is intended to waive, nor shall it be interpreted or applied to waive or abrogate in any way, any legislative immunity or legislative privilege of any body, subdivision, caucus, committee, or member of the General Assembly, or the Legislative Research Commission, as provided by the Constitution of Kentucky, KRS 418.075, any other statute of this Commonwealth, or federal or state common law.

Effective: April 12, 2024

History: Amended 2024 Ky. Acts ch. 189, sec. 5, effective April 12, 2024. -- Amended 2023 Ky. Acts ch. 131, sec. 1, effective March 29, 2023. -- Amended 2022 Ky. Acts ch. 88, sec. 20, effective July 14, 2022. -- Created 2021 Ky. Acts ch. 2, sec. 1, effective February 2, 2021.

Legislative Research Commission Note (10/26/2023). On October 26, 2023, the Kentucky Supreme Court ruled that the amendments to this statute in 2023 SB 126 (2023 Ky. Acts ch. 131), which create a mechanism for automatic transfer of an action challenging the constitutionality of a statute, administrative regulation, executive order, or administrative agency order, are "an unconstitutional encroachment by the legislative branch of government on the constitutionally conferred judicial powers of this Court" in violation of the separation of powers doctrine and Sections 27, 28, 109, 110, and 116 of the Kentucky Constitution. *Arkk Properties, LLC, et al. v. Cameron, et al.*, 2023-SC-0196-OA.

Legislative Research Commission Note (7/14/2022). This statute was amended by 2022 Ky. Acts ch. 88, sec. 20. Under Section 22 of ch. 88, that Act may be cited as the Student Education Loan Servicing, Licensing, and Protection Act of 2022.