

FREE CONFERENCE COMMITTEE REPORT

The Free Conference Committee on **HB 59** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

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For the above-referenced bill, with these amendments (if applicable):

Committee (list by chamber and number): ;

Floor (list by chamber and number): ; and

The following Free Conference Committee action:

Beginning on page 1, line 3, and continuing through page 22, line 2, delete all provisions and insert the following in lieu thereof:

"➔Section 1. KRS 14.260 is amended to read as follows:

- (1) ~~The~~~~[As funds are available, the]~~ Secretary of State, or designee, shall promulgate administrative regulations to expand the address protection program to allow an applicant or specified guardians to apply to have a substitute address designated to serve as the address of the participant. Any program created under this section shall:
 - (a) Collaborate with the Kentucky Commission on Women;
 - (b) Establish criteria to prohibit certain individuals, including any individual required to register as a sex offender, from participation in the program;
 - (c) Allow a participant to request that state and local agencies use the substitute address as the address of the participant, but agencies may show that they have a bona fide statutory or administrative requirement for the actual address;
 - (d) Be open to individuals that are victims of domestic violence and abuse, stalking, any victim of an offense or an attempt to commit an offense defined in KRS Chapter 510,

530.020, 530.064(1)(a), 531.310, or 531.320, or any victim of a similar federal offense or a similar offense from another state or territory;

- (e) Allow an applicant to submit evidence, such as~~[including]~~ a sworn statement, to show that he or she is a victim of a qualifying offense. **To provide immediate protection to potential victims of domestic violence and abuse, a lower standard of proof of domestic violence or abuse than a domestic violence order may be utilized by the victim to demonstrate eligibility to the agency or entity operating the address protection program. If available and relevant, a domestic violence order may also be used to demonstrate eligibility for the address protection program; and**
- (f) Issue a residency letter, document, or card to a participant in the address protection program for that participant to offer as proof that he or she actually resides in a specific county.**
- (2) Participation in any program established under this section shall not affect custody or visitation orders in effect prior to or established during program participation, nor shall it constitute evidence of any offense and shall not be considered for purposes of making an order allocating parental responsibilities or parenting time.
- (3) No actionable duty nor any right of action shall accrue against the state, any entity operating an address protection program for the state, an individual operating in his or her professional capacity on behalf of the confidential address protection program established in this section, or an employee of the state or municipality in the event of negligent acts that result in the disclosure of a program participant's actual address.
- (4) The address protection program fund is hereby created as a separate trust fund in the State Treasury. The address protection program fund shall consist of amounts received from fees collected pursuant to KRS 23A.208 and 24A.178, amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of this section.
- (5) The address protection program fund shall be administered by the Secretary of State to

operate and maintain the confidential address protection program established in this section.

- (6) Notwithstanding KRS 45.229, address protection program fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (7) Any interest earnings of the address protection program fund shall become a part of the address protection program fund and shall not lapse.
- (8) Moneys deposited in the address protection program fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

➔Section 2. KRS 14.304 is amended to read as follows:

- (1) Upon the creation of the crime victim address protection program, an applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State by administrative regulation and if it contains:
 - (a) A sworn statement by the applicant that:
 1. The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea;~~{-or}~~
 2. The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an order of protection as defined in KRS 403.720 and 456.010 by a court of competent jurisdiction within the

Commonwealth of Kentucky and the order is in effect at the time of application;

or

3. The applicant or the minor or the incompetent person on whose behalf the application is made is a participant in the address protection program established in Section 1 of this Act.

- (b) A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.
 - (c) The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State;
 - (d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense; and
 - (e) The signature of the applicant and of a representative of any office designated under KRS 14.310 as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.
- (2) Applications shall be filed with the Office of the Secretary of State.
 - (3) Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.
 - (4) Applicants shall be certified for two (2) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.
 - (5) A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application may be

found guilty of a violation of KRS 523.030.

- (6) The addresses of individuals applying for entrance into the crime victim address confidentiality program and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884.
- (7) A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.

➔Section 3. KRS 23A.208 is amended to read as follows:

- (1) In addition to fees created by KRS 23A.205, 23A.206, and 23A.2065, an administrative fee of thirty dollars (\$30) shall be added to the costs that the defendant is required to pay for the following crimes:
 - (a) A sex crime, meaning an offense described in:
 1. KRS Chapter 510;
 2. KRS 530.020;
 3. KRS 530.064(1)(a);
 4. KRS 531.310; and
 5. KRS 531.320;
 - (b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150;~~and~~
 - (c) **Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence and abuse as defined in KRS 403.720; and**
 - (d) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.
- (2) The first one dollar and fifty cents (\$1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the address protection program fund established in KRS 14.260 to be used solely to establish, operate, and maintain the confidential address

protection program established in KRS 14.260.

- (3) The court may waive all or any portion of the fee required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.

➔Section 4. KRS 24A.178 is amended to read as follows:

- (1) In addition to fees created by KRS 24A.175, 24A.176, and 24A.1765, an administrative fee of thirty dollars (\$30) shall be added to the costs that the defendant is required to pay for the following crimes:

(a) A sex crime, meaning an offense described in:

1. KRS Chapter 510;
2. KRS 530.020;
3. KRS 530.064(1)(a);
4. KRS 531.310; and
5. KRS 531.320;

(b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150;~~and~~

(c) **Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence and abuse as defined in KRS 403.720; and**

(d) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.

- (2) The first one dollar and fifty cents (\$1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the address protection program fund established in KRS 14.260 to be used solely to establish, operate, and maintain the confidential address protection program established in KRS 14.260.

- (3) The court may waive all or any portion of the fee required by this section if the court finds

that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.

➔Section 5. KRS 186.412 is amended to read as follows:

- (1)
 - (a) A person who was under the age of eighteen (18) years at the time of application for an instruction permit and is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days and has completed a driver training program under KRS 186.410(4).
 - (b) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days.
 - (c) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. Except as provided in subsection (8)(b) and (c) of this section, the application form shall require the person's:
 - (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social

- Security number, based upon religious convictions;
- (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone, **unless the person is a participant in the confidential address protection program established in Section 1 of this Act or KRS 14.300 to 14.318. If the person is a participant in the confidential address program, the circuit clerk shall accept the verified substitute address information issued pursuant to Section 1 of this Act by the agency operating the confidential address program for the purposes of this section;**
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
 - (g) A brief physical description of the applicant;
 - (h) A statement if the person has previously been licensed as an operator in another state;
 - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. **If the person is a participant in the confidential address protection program established in Section 1 of this Act or KRS 14.300 to 14.318, then the circuit clerk shall accept a verified substitute address issued pursuant to Section 1 of this Act by the confidential address protection program;** and
 - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:
- (a) An I-551 card with a photograph of the applicant; or
 - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United

States Bureau of Citizenship and Immigration Services has stamped the following:
"Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until ----. Employment authorized."

- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
- (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
- (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the

circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

- (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
 - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has not been reviewed by either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (g) If the person is a participant in the confidential address protection program established in Section 1 of this Act or KRS 14.300 to 14.318, then the circuit clerk shall accept a verified substitute address issued pursuant to Section 1 of this Act by the confidential address protection program.**
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the

application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21). **The cabinet shall allow a participant in the confidential address protection program established in Section 1 of this Act or KRS 14.300 to 14.318 to submit his or her verified substitute address as the address to be used on his or her operator's license for the purposes of this subsection.**

- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an

operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

- (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, **verified substitute address issued by the confidential address protection program established in Section 1 of this Act or KRS 14.300 to 14.318,** or an address provided on a voter registration card.
- (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).
- (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance, except that if the personal identification card is issued to a person who does not have a fixed, permanent address, then the personal identification card shall be valid for one (1) year from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Homeland Security, United

States Bureau of Citizenship and Immigration Services is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.

- (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) (a) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
- (b) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a released felony offender resides shall issue to any felony offender, if the felony offender is eligible, released from the Department of Corrections on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:
1. The offender's certificate of birth, except for offenders born outside this state;
 2. A copy of the offender's resident record card and parole certificate or notice of discharge;
 3. A photograph of the offender, printed on plastic card or paper; and

4. A release letter that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Department of Corrections;
 - b. Discharge/release date;
 - c. Signature;
 - d. Social Security number;
 - e. Date of birth;
 - f. Present Kentucky address where he or she resides; and
 - g. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (c) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a felony offender resides shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole, a personal identification card or, if the felony offender is eligible, an operator's license.

Proper documentation under this paragraph shall consist of:

1. The offender's certificate of birth, except for offenders born outside this state;
2. The offender's sentencing order;
3. A photograph of the offender, printed on plastic card or paper; and
4. A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Division of Probation and Parole;

- b. Signature;
- c. Social Security number;
- d. Date of birth;
- e. Present Kentucky address where he or she resides; and
- f. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the notarized release letter. The offender shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the

Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) (a) If a citizen of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.
- (b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.
- (c) A citizen who meets the criteria in paragraph (a) of this subsection and who does not

renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.

- (d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
- (a) Blood type;
 - (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
 - (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.1917.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of two dollars (\$2) paid to the circuit clerk, two (2) medical insignia decals that may be affixed to the driver's side of the front windshield of a motor vehicle and to the driver's side of the rear window of a motor vehicle.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
- (a) Use her husband's last name;

- (b) Retain her maiden name;
 - (c) Use her maiden name hyphenated with her husband's last name;
 - (d) Use her maiden name as a middle name and her husband's last name as her last name;
 - or
 - (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.
- (19) Any person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under conditions other than dishonorable, may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this section bear the word "veteran" on the face or the back of the license or personal identification card. The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present the circuit clerk with an original or copy of his or her DD-214 or DD-2 form as proof of veteran status. The circuit clerk shall not be liable for fraudulent or misread DD-214 or DD-2 forms presented.

➔Section 6. KRS 209A.030 is amended to read as follows:

- (1) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may offer or cause to be offered protective services for safeguarding the welfare of an adult who has experienced abuse or neglect inflicted or caused by a spouse. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its

statutory authority.

- (2) Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, mental health professional, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse or neglect, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.
- (3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse or neglect of an adult.
- (4) Any person making such a report shall provide the following information, if known:
 - (a) The name and address of the adult;
 - (b) The age of the adult;
 - (c) The nature and extent of the abuse or neglect, including any evidence of previous abuse or neglect;
 - (d) The identity of the perpetrator, if known;
 - (e) The identity of the complainant, if possible; and
 - (f) Any other information that the person believes might be helpful in establishing the cause of abuse or neglect.
- (5) Upon receipt of the report, the cabinet shall take the following action:
 - (a) Notify the appropriate law enforcement agency, if indicated;
 - (b) Initiate an investigation of the complaint; and
 - (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.
- (6) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter.
- (7) Any representative of the cabinet actively involved in the conduct of an abuse or neglect

investigation under subsection (5) of this section shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this section.

- (8) Any representative of the cabinet may with consent of the adult enter any private premises where any adult alleged to be abused or neglected is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter.
- (9) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.
- (10) In the event the adult elects to accept the protective services to be provided by the cabinet, no other person shall interfere with the cabinet when rendering such services.
- (11) Anyone knowingly or wantonly violating the provisions of subsection (2) of this section shall be guilty of a Class B misdemeanor and penalized in accordance with KRS 532.090. Each violation shall constitute a separate offense.
- (12) (a) For the purposes of this subsection, "application assistant" means a person who provides counseling, shelter, or other services to victims of domestic violence, sexual offenses, or stalking and has completed the training and registration process required by the entity or agency operating the address protection program established in Section 1 of this Act.**
- (b) Notwithstanding any provision of this section to the contrary, an application assistant of the address protection program established in Section 1 of this Act shall not be required to forward information regarding the abuse or neglect of an adult to the cabinet if the failure to report will protect an individual, including an applicant or a program participant, associated with the address protection program established in Section 1 of this Act.**
- (c) An application assistant of the address protection program established in Section 1**

of this Act shall be required to forward information to the cabinet in accordance with KRS Chapters 209 and 620.

➔Section 7. KRS 525.200 is amended to read as follows:

(1) A person is guilty of assault on a service animal in the first degree when, **without legal justification or lawful authority:**

(a) He intentionally kills or causes serious physical injury to a service animal;

(b) He intentionally causes physical injury to a service animal by means of a deadly weapon or dangerous instrument; or

(c) He wantonly causes serious physical injury to a service animal by means of a deadly weapon or dangerous instrument~~[he intentionally and without legal justification or lawful authority kills or causes physical injury to a service animal to the extent that a service animal becomes physically incapable of ever returning to service].~~

(2) Assault on a service animal in the first degree is a Class D felony.

➔Section 8. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:

(a) A capital offense;

(b) A Class A felony;

(c) A Class B felony involving the death of the victim or serious physical injury to a victim;

(d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;

(e) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;

(f) Use of a minor in a sexual performance as described in KRS 531.310;

- (g) Promoting a sexual performance by a minor as described in KRS 531.320;
- (h) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
- (i) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
- (j) Criminal abuse in the first degree as described in KRS 508.100;
- (k) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
- (l) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as ***described in*** ~~prohibited by~~ KRS 509.040; ~~or~~
- (m) Robbery in the first degree; ***or***
- (n) ***The attempted commission of murder as described in KRS 507.020.***

The court shall designate in its judgment if the victim suffered death or serious physical injury.

- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3) (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed, ***except as provided in paragraph (e) of this subsection.***
- (b) A violent offender who has been convicted of a violation of KRS 507.040 where the

victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.

(c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.

(d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.

(e) Any offender who has been convicted of the attempted commission of murder as described in KRS 507.020 and is not a violent offender pursuant to paragraph (c) of subsection (1) of this section shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.

(4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim, ~~or~~ serious physical injury to the victim, **or attempted murder of the victim**. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

➔Section 9. KRS 14A.1-070 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Business" includes every trade, occupation, and profession;
- (2) "Corporation" means a business corporation governed as to its internal affairs by KRS Chapter 271B, a cooperative or association governed as to its internal affairs by KRS Chapter 272, a nonprofit corporation governed as to its internal affairs by KRS Chapter 273, and a rural electric or rural telephone cooperative corporation governed as to its internal affairs by KRS Chapter 279;
- (3) "Business trust" means a business trust governed as to its internal affairs by KRS Chapter 386 or a statutory trust governed as to its internal affairs by KRS Chapter 386A;
- (4) "Debtor in bankruptcy" means a person who is the subject of:
 - (a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (b) A comparable order under federal, state, or foreign law governing insolvency;
- (5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;
- (6) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;
- (7) "Entity" means a corporation, business trust, partnership, limited partnership, or limited liability company, governed as to its internal affairs by the laws of the Commonwealth of

Kentucky;

- (8) "Foreign business trust" means a business or statutory trust not governed as to its internal affairs by KRS Chapter 386 or 386A;
- (9) "Foreign corporation" means a corporation as defined in subsection (2) of this section that is not:
- (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (10) "Foreign entity" means a corporation, not-for-profit corporation, cooperative, association, business or statutory trust, partnership, limited partnership, or limited liability company not:
- (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (11) "Foreign limited cooperative association" means a limited cooperative association that is not:
- (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (12) "Foreign limited liability partnership" means a partnership that:
- (a) Is formed under laws other than the laws of this Commonwealth; and
 - (b) Has the status of a limited liability partnership under those laws;
- (13) "Foreign professional service corporation" has the same meaning as in KRS 274.005;
- (14) "Foreign rural electric cooperative" means a rural electric cooperative organized otherwise than under KRS 279.010 to 279.210;
- (15) "Foreign rural telephone cooperative" means a rural telephone cooperative organized otherwise than under KRS 279.310 to 279.990 excepting 279.570;
- (16) "Good standing" means that all annual reports which are required to be received from an entity or foreign entity have been delivered to and filed by the Secretary of State, that all other lawfully required statutory documentation has been received and filed, and that all

fees, costs, and expenses, including penalties incurred in connection therewith, have been paid;

- (17) "Limited cooperative association" means a limited cooperative association governed as to its affairs by KRS Chapter 272A;
- (18) "Limited liability company" has the same meaning as in KRS 275.015;
- (19) "Limited liability partnership" means a partnership that has filed a statement of qualification under KRS 362.1-931 or a registration as a registered limited liability partnership under KRS 362.555 and does not have a similar statement of registration in effect in any other jurisdiction;
- (20) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity or foreign entity;
- (21) "Nonprofit corporation," other than in the term "foreign nonprofit corporation," means a nonprofit corporation incorporated pursuant to and governed as to its internal affairs by KRS Chapter 273 or predecessor law;
- (22) "Organic act" means the law of a state or other jurisdiction governing the organization and internal affairs of an entity or foreign entity;
- (23) "Organized" means organized, incorporated, or formed;
- (24) "Organizational filing" means a filing made with the Secretary of State as a precondition to the formation, organization, or incorporation of an entity, including articles of incorporation, articles of organization, articles of association, certificates of trust, and certificates of limited partnership. A statement of qualification filed pursuant to KRS 362.1-931 or a registration as a limited liability partnership filed pursuant to KRS 362.555 is not an organizational filing;
- (25) "Partnership" means an association of two (2) or more persons to carry on as co-owners a business for profit formed under KRS 362.1-202, predecessor law, or comparable law of another jurisdiction;
- (26) "Partnership agreement" means the agreement, whether written, oral, or implied, among the

- partners concerning the partnership, including amendments to the partnership agreement;
- (27) "Person" means an individual, an entity, a foreign entity, or any other legal or commercial entity;
- (28) "Principal office" means the address required by this chapter or the organic act to be of record with the Secretary of State as the principal office, the principal place of business address, the designated office of a limited partnership, or the chief executive office of a limited liability partnership;
- (29) "Professional service corporation" has the same meaning as in KRS 274.005;
- (30) "Professional services" means the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;
- (31) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein;
- (32) "Qualified person" has the same meaning as in KRS 274.005;
- (33) "Registered agent" means a registered agent appointed in accordance with KRS 14A.4-010 or predecessor law, and is synonymous with agent for service of process;
- (34) "Regulatory board" means the agency that is charged by law with the licensing and regulation of the practice of the profession which the professional partnership is organized to provide;
- (35) "Rural electric cooperative" means a rural electric cooperative governed as to its internal affairs by KRS 279.010 to 279.210;
- (36) "Rural telephone cooperative" means a rural telephone cooperative governed as to its internal affairs by KRS 279.310 to 279.990 excepting KRS 279.570;
- (37) "Series entity" means an entity or a foreign entity authorized and enabled by its organic act and organizational filing to create series having separate rights, powers, or duties with respect to specific property or obligations of the series entity, or the profits and losses

associated with specific property or obligations;

(38) "Sign" or "signature" includes any manual, facsimile, conformed, or electronic signature;

(39) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States;~~and~~

(40) "Statutory trust" means a trust governed as to its internal affairs by KRS Chapter 386A;

(41) "Veteran" means any person who served in the United States Armed Forces, Reserves, or National Guard and was separated or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge under honorable conditions; and

(42) "Veteran-owned business" means a business:

(a) That is at least fifty-one percent (51%) unconditionally owned by one (1) or more veterans; or

(b) In the case of a publicly owned business, in which at least fifty-one percent (51%) of the stock is unconditionally owned by one (1) or more veterans.

➔SECTION 10. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 14A IS CREATED TO READ AS FOLLOWS:

Any veteran-owned business that is initiated after August 1, 2016, is exempt from paying the filing fees for:

(1) Articles of incorporation, an amendment of articles of incorporation, amended and restated articles of incorporation, or a restatement of articles of incorporation under KRS Chapter 271B for a corporation or under KRS Chapter 273 for a nonprofit corporation;

(2) Articles of organization, an amendment of articles of organization, a restatement of articles of organization, or an amendment and restatement of articles of organization under KRS Chapter 275 for a limited liability company;

(3) A statement or renewal of statement of partnership under KRS Chapter 362;

- (4) A statement of partnership authority under Subchapter 1 of KRS Chapter 362;**
- (5) A certificate of limited partnership under Subchapter 2 of KRS Chapter 362; or**
- (6) A declaration of trust under KRS Chapter 386 for a business trust.**

➔Section 11. KRS 14A.2-060 is amended to read as follows:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered for filing:

- (a) Application for use of indistinguishable name\$ 20
- (b) Application or renewal of application for reserved name\$ 15
- (c) Cancellation of application for reserved name\$ 10
- (d) Notice of transfer of reserved name\$ 15
- (e) Application for registered name\$ 36
- (f) Application for renewal of registered name\$ 36
- (g) Statement of change of registered office or registered agent, or both\$ 10
- (h) Statement of change of principal office address\$ 10
- (i) Agent's statement of change of registered office for each affected
entity or foreign entity\$ 10
not to exceed a total of\$2,000
- (j) Reinstatement penalty following administrative dissolution\$ 100
- (k) Application for certificate of authority\$ 90
- (l) Application for amended certificate of authority\$ 40
- (m) Certificate of withdrawal\$ 40
- (n) Certificate of existence\$ 10
- (o) Certificate of authorization\$ 10
- (p) Any other document required or permitted to be filed by this chapter\$ 15
- (q) Agent's statement of resignation No fee
- (r) Certificate of administrative dissolution No fee
- (s) Certificate of reinstatement No fee

- (t) Certificate of revocation of authority to transact businessNo fee
- (2) (a) The Secretary of State shall collect a fee of fifteen dollars (\$15) with respect to each annual report or amendment thereto.
 - (b) *Notwithstanding paragraph (a) of this subsection, a veteran-owned business initiated after August 1, 2016, is exempt from paying the fee for filing an annual report or amendment thereto for the first four (4) years after its initial registration, but is not exempt from any filing requirement or deadline for filing an annual report.*
- (3) The Secretary of State shall collect a fee of ten dollars (\$10) each time process is served on him or her under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.
- (4) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign entity:
 - (a) Five dollars (\$5) per request for the first five (5) pages and fifty cents (\$0.50) a page for each page thereafter; and
 - (b) Five dollars (\$5) for the certificate.

➔Section 12. KRS 423.010 is amended to read as follows:

- (1) The Secretary of State may appoint as many notaries public as he or she deems necessary, who shall hold office for four (4) years. Any resident of the Commonwealth of Kentucky desiring to be appointed a notary public shall make written application to the Secretary of State. The application shall be approved by the Circuit Judge, circuit clerk, county judge/executive, county clerk, justice of the peace, or a member of the General Assembly of the county of the residence of the applicant or in the county in which the applicant's principal place of employment is located. A person who is not a resident of Kentucky but who is employed in Kentucky may become a notary public by making an application to the Secretary of State which has been approved by an officer specified in this section from the county in which the applicant is principally employed in Kentucky. No officer shall charge

or accept any fee for approving the application. *An applicant for a commission as a notary public must:*

- (a) Be at least eighteen (18) years of age;*
- (b) Be a citizen or permanent legal resident of the United States;*
- (c) Be a resident of the county from which he or she makes his or her application or be principally employed in the county from which he or she makes his or her application;*
- (d) Be able to read and write;*
- (e) Be capable of discharging the duties imposed upon him or her by this chapter; and*
- (f) Possess the endorsement of the officer approving the application.*

~~[A notary public shall be eighteen (18) years of age, a resident of the county from which he or she makes his or her application or be principally employed in the county from which he or she makes his or her application, of good moral character, and capable of discharging the duties imposed upon him or her by this chapter, and the endorsement of the officer approving the application shall so state.]~~

- (2) The Secretary of State, in his or her certificate of appointment to the applicant, shall designate the limits within which the notary is to act. Before a notary acts, he or she shall take an oath before any person authorized to administer an oath as set forth in KRS 62.020 that he or she will honestly and diligently discharge the duties of his or her office. He or she shall in the same court give an obligation with good security, which shall be proven by a notarized statement from, and not the personal appearance of, the person providing the security, for the proper discharge of the duties of his or her office. Every certificate of a notary public shall state the date of the expiration of his or her commission. The Secretary of State shall give to each notary appointed a certificate of his or her appointment under the seal of the Commonwealth of Kentucky in lieu of a commission heretofore required to be issued to the notary by the Governor of Kentucky, and receive a fee of ten dollars (\$10) for the certificate.

~~(3)(2)~~ A county clerk shall have the powers of a notary public in the exercise of the official functions of the office of clerk within his or her county, and the official actions of the county clerk shall not require the witness or signature of a notary appointed pursuant to subsection (1) of this section.

→ Section 13. KRS 620.100 is amended to read as follows:

(1) **Prior to a temporary removal hearing,** ~~[If the court determines, as a result of a temporary removal hearing, that further proceedings are required,]~~ the court shall advise the child and his **or her** parent or other person exercising custodial control or supervision of their right to appointment of separate counsel **as follows**:

(a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development **and participation in training concerning the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victims services, and reporting requirements**. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is **a poor person as defined in** ~~[unable to afford counsel pursuant to]~~ KRS **453.190** ~~[Chapter 31]~~. **Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development and participation in training concerning the dynamics of domestic violence, effects of domestic violence on adult**

and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victims services, and reporting requirements. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250). If counsel is not available at the temporary removal hearing and the person does not waive his or her right to counsel, the court shall grant a continuance. If a continuance is granted to provide for counsel, the court may extend the effective period of the emergency custody order for seventy-two (72) hours, excluding weekends and holidays;

- (c) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is a poor person as defined in~~[unable to afford counsel, pursuant to]~~ KRS 453.190~~[Chapter 31]~~. Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development and participation in training concerning the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victims services, and reporting requirements. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District

Court, the fee shall not exceed two hundred fifty dollars (\$250); and

- (d) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer.
- (2) **Prior to a temporary removal hearing**~~[If the court determines that further proceedings are required]~~, the court also shall advise the child and his **or her** parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.
- (3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.
- (4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.
- (5) Foster parents, preadoptive parents, or relatives providing care for the child shall receive notice of, and shall have a right to be heard in, any proceeding held with respect to the child. This subsection shall not be construed to require that a foster parent, preadoptive parent, or relative caring for the child be made a party to a proceeding solely on the basis of the notice and right to be heard.
- ➔Section 14. KRS 620.080 is amended to read as follows:
- (1) Unless waived by the child and his parent or other person exercising custodial control or supervision, a temporary removal hearing shall be held:
- (a) Within seventy-two (72) hours, excluding weekends and holidays, of the time when an emergency custody order is issued or when a child is taken into custody without

the consent of his parent or other person exercising custodial control or supervision;
and

(b) In cases commenced by the filing of a petition, within ten (10) days of the date of filing.

(2) **Prior to a temporary removal hearing, the court shall advise the child and his or her parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and that the parent or other person exercising custodial control or supervision has a right to testify and otherwise present evidence at the temporary removal hearing if they choose to do so. The court shall consider that evidence in making the determination required in subsection (3) of this section.**

(3) At a temporary removal hearing, the court shall determine whether there are reasonable grounds to believe that the child would be dependent, neglected or abused if returned to or left in the custody of his parent or other person exercising custodial control or supervision even though it is not proved conclusively who has perpetrated the dependency, neglect or abuse. For good cause, the court may allow hearsay evidence. The Commonwealth shall bear the burden of proof by a preponderance of the evidence and if the Commonwealth should fail to establish same, the child shall be released to or retained in the custody of his parent or other person exercising custodial control or supervision.

➔Section 15. The provisions of Sections 1 to 6 of this Act, and KRS 14.260 in particular, may be cited as the "Tom Shwab Address Protection Act of 2016."

➔Section 16. Whereas the protection afforded to victims by a robust address protection program is life-saving and vital, an emergency is declared to exist, and Sections 1 to 6 of this Act take effect upon their passage and approval by the Governor or upon those sections otherwise becoming law."; and

Amend the title to read as follows:

"AN ACT relating to public protection and declaring an emergency."

Unofficial Document

Senate Members

- Albert L Robinson _____
- Dennis Parrett _____
- Wil Schroder _____
- Whitney Westerfield _____
- Danny Carroll _____
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House Members

- Tom Burch _____
- Joni Jenkins _____
- Ron Crimm _____
- David Watkins _____
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The above-named members, in separate votes by house, all concur in the provisions of this report.

DATE
April 1, 2016 _____

For Clerk's Use:

Adopted: _____

Repassage Vote: _____