

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2016 REGULAR SESSION  
**Unofficial Document**

Amend printed copy of SB 130/SCS 1

Starting on page 1, line 5, delete all text to page 3, line 23, and insert the following in lieu thereof:

**"(1) In any matter brought for prosecution under this chapter, digital evidence material to the guilt or innocence of the accused which the prosecution claims meets the definition of evidence of obscene matter or sexual conduct, shall be made available to counsel for an accused in a criminal prosecution only for purposes of preparation for litigation and in the following manner:**

**(a) The defendant and counsel for the defendant in a criminal case shall sign a protective order and file such order in the court record, before any digital evidence is provided to them;**

**(b) Counsel for the Commonwealth shall hand deliver the evidence to counsel for the defendant and the evidence shall not be transported across state lines;**

**(c) Access to the evidence shall be limited to counsel for the defendant and their expert.**

**(d) Counsel for the defendant shall only permit the defendant access to the evidence when accompanying the defendant and only for purposes of working with the defendant to review the evidence in preparation for litigation;**

Amendment No. SFA 1

Sponsor: Sen. Robin L. Webb

Committee Amendment: \_\_\_\_\_

Signed: \_\_\_\_\_

Floor Amendment: \_\_\_\_\_

LRC Drafter: Hurley, Dallas

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

Rejected: \_\_\_\_\_

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- (e) Anyone reviewing the evidence on behalf of the defense shall acknowledge in writing receipt and review of the court's protective order;
- (f) Agreements between counsel for the litigant and their expert shall acknowledge the obligations of the expert to follow the terms of the protective order;
- (g) The digital evidence shall be transferred by an external hard drive only, and shall not be transferred by Internet connection and shall be transferred to a computer which is not connected to the Internet or any other computer. Access to the computer shall be limited to those approved by the protective order of the court.
- (h) Upon conclusion of the litigation, the digital evidence shall be returned to the Commonwealth by hand delivery. The appropriate software necessary to erase all traces of the digital evidence shall be used on the computer utilized pursuant to paragraph (g) of this subsection to ensure that no trace of the digital evidence remains on the computer or hard drive utilized in paragraph (g) of this subsection. At the conclusion of the criminal proceedings, counsel for the defendant shall certify compliance with the return protocol required in the protective order;
- (i) A copy of the protective order shall be kept with the digital evidence at all times;  
and
- (j) A copy of the protective order shall be posted beside the computer utilized pursuant to paragraph (g) of this subsection clearly displaying the prohibition against access to the computer by any other person not authorized to access the computer by the protective order.
- (2) Any person who is not exempt under subsection (1) of this section and who possesses, distributes, or views matter in contravention of any provision of this chapter shall be subject to:
- (a) Criminal prosecution for the violation of this chapter; and

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**(b) Contempt for a violation of a court order entered under this section."**