

1 AN ACT relating to the prevention of child abuse and exploitation.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 4 of this Act:*

6 *(1) "Criminal offense against a minor" means a conviction or guilty plea to any of*  
7 *the following offenses if the victim is under the age of eighteen (18) at the time of*  
8 *the commission of the offense:*

9 *(a) Kidnapping, as in KRS 509.040, except by a parent;*

10 *(b) Unlawful imprisonment, as in KRS 509.020, except by a parent;*

11 *(c) Sexual misconduct, as in KRS 510.140;*

12 *(d) Use of a minor in a sexual performance, as in KRS 531.310;*

13 *(e) Promoting a sexual performance by a minor, as in KRS 531.320;*

14 *(f) Possession or viewing of matter portraying a sexual performance by a*  
15 *minor, as in KRS 531.335;*

16 *(g) Distribution of matter portraying a sexual performance by a minor, as in*  
17 *KRS 531.340;*

18 *(h) Promoting sale of material portraying a sexual performance by a minor, as*  
19 *in KRS 531.350;*

20 *(i) Advertising material portraying a sexual performance by a minor, as in*  
21 *KRS 531.360;*

22 *(j) Using minors to distribute material portraying a sexual performance by a*  
23 *minor, as in KRS 531.370;*

24 *(k) Human trafficking involving commercial sexual activity, as in KRS*  
25 *529.100;*

26 *(l) Promoting prostitution, as in KRS 529.040, when the defendant advances or*  
27 *profits from the prostitution of a person under the age of eighteen (18);*

1 (m) Unlawful transaction with a minor in the first degree, as in KRS  
2 530.064(1)(a);

3 (n) Any attempt to commit any of the offenses described in paragraphs (a) to  
4 (m) of this subsection; or

5 (o) Solicitation to commit any of the offenses described in paragraphs (a) to (m)  
6 of this subsection;

7 (2) "Sex crime" means a conviction or a plea of guilty to any of the following  
8 offenses:

9 (a) Rape in the first degree, as in KRS 510.040;

10 (b) Rape in the second degree, as in KRS 510.050;

11 (c) Rape in the third degree, as in Section 15 of this Act;

12 (d) Sodomy in the first degree, as in KRS 510.070;

13 (e) Sodomy in the second degree, as in KRS 510.080;

14 (f) Sodomy in the third degree, as in Section 16 of this Act;

15 (g) Sodomy in the fourth degree, as in KRS 510.100;

16 (h) Sexual abuse in the first degree, as in KRS 510.110;

17 (i) Sexual abuse in the second degree, as in KRS 510.120;

18 (j) Sexual abuse in the third degree, as in KRS 510.130;

19 (k) Indecent exposure in the first degree, as in KRS 510.148;

20 (l) Indecent exposure in the second degree, as in KRS 510.150;

21 (m) Unlawful use of electronic means originating or received within the  
22 Commonwealth to induce a minor to engage in sexual or other prohibited  
23 activities, as in KRS 510.155; or

24 (n) Incest, as in KRS 530.020;

25 (3) "Violent offender" means a person who has been convicted of or who has  
26 entered a guilty plea to the commission of a capital offense, Class A felony, Class  
27 B felony involving the death of or serious physical injury to the victim, rape in the

1 first degree, or sodomy in the first degree; and

2 (4) "Youth camp" or "camp" means:

3 (a) Any camp required to obtain a permit to operate pursuant to KRS 211.180;

4 and

5 (b) Any program offered, whether free or for a fee, for recreational,

6 educational, sports training, or vacation purposes to children under

7 eighteen (18) years of age that a child attends outside the presence of his or

8 her parent or legal guardian.

9 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
10 READ AS FOLLOWS:

11 Sections 1 to 4 of this Act shall not apply to:

12 (1) Public school districts or programs sponsored by the school district;

13 (2) Private schools;

14 (3) (a) Child-care centers;

15 (b) Child-caring and child-placing agencies;

16 (c) Family child-care homes; and

17 (d) Foster care, relative caregiver services, or adoptive homes otherwise

18 governed by KRS Chapter 199; or

19 (4) Babysitting or child-care arrangements made by a child's parent or guardian and

20 occurring within a private home.

21 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
22 READ AS FOLLOWS:

23 (1) No youth camp shall employ, contract, or utilize as a volunteer, in any position,

24 any person who has been convicted of or who has entered a guilty plea to a

25 criminal offense against a minor or a sex crime, who is a violent offender, or who

26 has been found by the Cabinet for Health and Family Services or a court to have

27 abused or neglected a child.

- 1 (2) Prior to employing, contracting with, or allowing to engage in volunteer work,  
2 each youth camp shall obtain from the Justice and Public Safety Cabinet a state  
3 criminal background check of the applicant, contractor, or volunteer prior to the  
4 individual's presence at the camp or involvement in any program of the camp.
- 5 (3) Each application form provided by a youth camp to an applicant, contractor, or  
6 volunteer shall in a prominent place and legible font conspicuously state the  
7 following: "STATE LAW REQUIRES A STATE CRIMINAL BACKGROUND  
8 CHECK AS A CONDITION OF EMPLOYMENT OR INVOLVEMENT IN  
9 THIS PROGRAM."
- 10 (4) Any request for records under subsection (2) of this section shall be on a form  
11 approved by the Justice and Public Safety Cabinet, and the cabinet may charge a  
12 fee to be paid by the subject of the records request in an amount no greater than  
13 the actual cost of processing the request.
- 14 (5) This section shall apply to all applicants, contractors, and volunteers in a position  
15 which involves supervisory or disciplinary power over a minor.
- 16 (6) This section shall not be construed to prohibit an exempted organization from  
17 requiring its employees, contractors, or volunteers to submit to a background  
18 check.
- 19 (7) This section shall not be construed to require a youth camp to employ, contract  
20 with, or allow volunteer work by an individual solely on the basis of an  
21 acceptable criminal background check.
- 22 (8) This section shall not limit a youth camp's ability to establish a more stringent  
23 background check process for its employees, contractors, or volunteers regarding  
24 other criminal offenses which, in the discretion of the youth camp, would  
25 disqualify the individual from involvement with the youth camp.

26 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
27 READ AS FOLLOWS:

1 (1) Failure to comply with Section 3 of this Act will result in the immediate  
2 suspension of the entity's permit until compliance is reached.

3 (2) If any employee, contractor, or volunteer is discovered to have been a violent  
4 offender, convicted of a sex crime or a criminal offense against a minor, or found  
5 by the Cabinet for Health and Family Services or a court to have abused or  
6 neglected a child, he or she shall be immediately terminated from the  
7 participation with the program and removed from the property.

8 (3) Any person who owns or operates a youth camp and knowingly allows an  
9 individual to serve or continue to serve as an employee, contractor, or volunteer  
10 despite a conviction or offense specified in this section shall be guilty of a Class A  
11 misdemeanor for the first offense and a Class D felony for each subsequent  
12 offense.

13 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO  
14 READ AS FOLLOWS:

15 (1) A parent or legal guardian employing a child care provider for his or her minor  
16 child may request a background check of the child abuse and neglect records  
17 maintained by the cabinet by submitting the same form and paying the same fee  
18 that would be submitted by an entity required by law to request a background  
19 check on an employee, contractor, or volunteer for the purpose of determining  
20 whether there has been a substantiated finding of child abuse or neglect for the  
21 child care provider. The form shall contain the signature of the individual child  
22 care provider consenting to the background check.

23 (2) The cabinet shall make the form for requesting a background check of the child  
24 abuse and neglect records maintained by the cabinet available on its Web site  
25 along with information on how to locate a child care provider certified or  
26 licensed by the cabinet and how to request a criminal background check for a  
27 child care provider.

1 **(3) The cabinet shall promulgate administrative regulations to implement subsection**  
2 **(1) of this section.**

3 ➔Section 6. KRS 160.380 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Alternative education program" means a program that exists to meet the  
6 needs of students that cannot be addressed in a traditional classroom setting  
7 but through the assignment of students to alternative classrooms, centers, or  
8 campuses that are designed to remediate academic performance, improve  
9 behavior, or provide an enhanced learning experience. Alternative education  
10 programs do not include career or technical centers or departments;

11 (b) "Contractor" means an adult who is permitted access to school grounds  
12 pursuant to a current or prospective contractual agreement with the school,  
13 school board, school district, or school-affiliated entity, at times when  
14 students are present. The term "contractor" includes an employee of a  
15 contractor;

16 (c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter,  
17 aunt, uncle, son-in-law, and daughter-in-law; and

18 (d) "Vacancy" means any certified position opening created by the resignation,  
19 dismissal, nonrenewal of contract, transfer, or death of a certified staff  
20 member of a local school district, or a new position created in a local school  
21 district for which certification is required. However, if an employer-employee  
22 bargained contract contains procedures for filling certified position openings  
23 created by the resignation, dismissal, nonrenewal of contract, transfer, or death  
24 of a certified staff member, or creation of a new position for which  
25 certification is required, a vacancy shall not exist, unless certified positions  
26 remain open after compliance with those procedures.

27 (2) Except as provided in KRS 160.346:

- 1 (a) All appointments, promotions, and transfers of principals, supervisors,  
2 teachers, and other public school employees shall be made only by the  
3 superintendent of schools, who shall notify the board of the action taken. All  
4 employees of the local district shall have the qualifications prescribed by law  
5 and by the administrative regulations of the Kentucky Board of Education and  
6 of the employing board. Supervisors, principals, teachers, and other  
7 employees may be appointed by the superintendent for any school year at any  
8 time after February 1 preceding the beginning of the school year. No  
9 superintendent of schools shall appoint or transfer himself or herself to  
10 another position within the school district;
- 11 (b) When a vacancy occurs in a local school district, the superintendent shall  
12 notify the chief state school officer thirty (30) days before the position shall be  
13 filled. The chief state school officer shall keep a registry of local district  
14 vacancies which shall be made available to the public. The local school  
15 district shall post position openings in the local board office for public  
16 viewing;
- 17 (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent  
18 disruption of necessary instructional or support services of the school district,  
19 the superintendent may seek a waiver from the chief state school officer. If the  
20 waiver is approved, the appointment shall not be made until the person  
21 recommended for the position has been approved by the chief state school  
22 officer. The chief state school officer shall respond to a district's request for  
23 waiver or for approval of an appointment within two (2) working days;
- 24 (d) When a vacancy occurs in a local district, the superintendent shall conduct a  
25 search to locate minority teachers to be considered for the position. The  
26 superintendent shall, pursuant to administrative regulations of the Kentucky  
27 Board of Education, report annually the district's recruitment process and the

1 activities used to increase the percentage of minority teachers in the district;

2 (e) No relative of a superintendent of schools shall be an employee of the school  
3 district. However, this shall not apply to a relative who is a classified or  
4 certified employee of the school district for at least thirty-six (36) months  
5 prior to the superintendent assuming office, or prior to marrying a relative of  
6 the superintendent, and who is qualified for the position the employee holds.  
7 A superintendent's spouse who has previously been employed in a school  
8 system may be an employee of the school district. A superintendent's spouse  
9 who is employed under this provision shall not hold a position in which the  
10 spouse supervises certified or classified employees. A superintendent's spouse  
11 may supervise teacher aides and student teachers. However, the  
12 superintendent shall not promote a relative who continues employment under  
13 an exception of this subsection;

14 (f) No superintendent shall employ a relative of a school board member of the  
15 district, unless on July 13, 1990, the board member's relative is an employee  
16 of the district, the board member is holding office, and the relative was not  
17 initially hired by the district during the tenure of the board member. A relative  
18 employed in 1989-90 and initially hired during the tenure of a board member  
19 serving on July 13, 1990, may continue to be employed during the remainder  
20 of the board member's term. However, the superintendent shall not promote  
21 any relative of a school board member who continues employment under the  
22 exception of this subsection; and

23 (g) 1. No principal's relative shall be employed in the principal's school, except  
24 a relative who is not the principal's spouse and who was employed in the  
25 principal's school during the 1989-90 school year.

26 2. No spouse of a principal shall be employed in the principal's school,  
27 except:



- 1           a. A principal's spouse who was employed in the principal's school  
2           during the 1989-90 school year for whom there is no position for  
3           which the spouse is certified to fill in another school operated in  
4           the district; or
- 5           b. A principal's spouse who was employed in the 1989-90 school year  
6           and is in a school district containing no more than one (1)  
7           elementary school, one (1) middle school, and one (1) high school.
- 8           3. A principal's spouse who is employed in the principal's school shall be  
9           evaluated by a school administrator other than the principal.
- 10          4. The provisions of KRS 161.760 shall not apply to any transfer made in  
11          order to comply with the provisions of this paragraph.
- 12 (3) No superintendent shall assign a certified or classified staff person to an alternative  
13 education program as part of any disciplinary action taken pursuant to KRS 161.011  
14 or 161.790 as part of a corrective action plan established pursuant to the local  
15 district evaluation plan.
- 16 (4) No superintendent shall employ in any position in the district any person who is a  
17 violent offender or has been convicted of a sex crime as defined by KRS 17.165  
18 which is classified as a felony. The superintendent may employ, **except at a**  
19 **Kentucky Educational Collaborative for State Agency Children program,** at his  
20 discretion, persons convicted of sex crimes classified as a misdemeanor **or persons**  
21 **with a substantiated finding of child abuse and neglect in records maintained by**  
22 **the Cabinet for Health and Family Services.**
- 23 (5) (a) A superintendent shall require a national and state criminal background check  
24 **and a name-based background check of child abuse and neglect records**  
25 **maintained by the Cabinet for Health and Family Services** on all new  
26 certified hires in the school district and student teachers assigned within the  
27 district. Excluded are certified individuals who were employed in another

1 certified position in a Kentucky school district within six (6) months of the  
2 date of hire and who had previously submitted to a national and state criminal  
3 background check and a name-based background check of child abuse and  
4 neglect records maintained by the Cabinet for Health and Family Services  
5 for the previous employment.

6 (b) The superintendent shall require that each new certified hire and student  
7 teacher, as set forth in paragraph (a) of this subsection, submit to a national  
8 and state criminal history background check by the Department of Kentucky  
9 State Police and the Federal Bureau of Investigation and a name-based  
10 background check of child abuse and neglect records maintained by the  
11 Cabinet for Health and Family Services.

12 (c) All fingerprints requested under this section shall be on an applicant  
13 fingerprint card provided by the Department of Kentucky State Police. The  
14 fingerprint cards shall be forwarded to the Federal Bureau of Investigation  
15 from the Department of Kentucky State Police after a state criminal  
16 background check is conducted. The results of the state and federal criminal  
17 background check and the results of a name-based background check of  
18 child abuse and neglect records maintained by the Cabinet for Health and  
19 Family Services shall be sent to the hiring superintendent. Any fee charged by  
20 the Department of Kentucky State Police, ~~and~~ the Federal Bureau of  
21 Investigation, and the Cabinet for Health and Family Services, shall be an  
22 amount no greater than the actual cost of processing the request and  
23 conducting the search.

24 (d) The Education Professional Standards Board may promulgate administrative  
25 regulations to impose additional qualifications to meet the requirements of  
26 Public Law 92-544.

27 (6) (a) A superintendent shall require a state criminal background check and a name-

1           **based background check of child abuse and neglect records maintained by**  
2           **the Cabinet for Health and Family Services** on all classified initial hires.

3           (b) The superintendent shall require that each classified initial hire submit to a  
4           state criminal history background check by the Department of Kentucky State  
5           Police **and a name-based background check of child abuse and neglect**  
6           **records maintained by the Cabinet for Health and Family Services**. If an  
7           applicant has been a resident of Kentucky twelve (12) months or less, the  
8           superintendent may require a national criminal history background check as a  
9           condition of employment.

10          (c) Any request for **any criminal background** records under this section shall be  
11          on an applicant fingerprint card provided by the Department of Kentucky  
12          State Police. The results of the state criminal background check and the results  
13          of the national criminal history background check, if requested under the  
14          provisions of paragraph (b) of this subsection, **and the results of a name-**  
15          **based background check of child abuse and neglect records maintained by**  
16          **the Cabinet for Health and Family Services** shall be sent to the hiring  
17          superintendent. Any fee charged by the Department of Kentucky State Police  
18          **and the Cabinet for Health and Family Services** shall be an amount no  
19          greater than the actual cost of processing the request and conducting the  
20          search.

21          (7) The superintendent may require a contractor, volunteer, or visitor to submit to a  
22          national and state criminal history background check by the Department of  
23          Kentucky State Police and the Federal Bureau of Investigation **and a name-based**  
24          **background check of child abuse and neglect records maintained by the Cabinet**  
25          **for Health and Family Services**. Any request for records under this section shall be  
26          on an applicant fingerprint card provided by the Department of Kentucky State  
27          Police. The results of the state criminal background check and the results of the

1 national criminal history background check, if requested, and the results of a  
2 name-based background check of child abuse and neglect records maintained by  
3 the Cabinet for Health and Family Services shall be sent to the hiring  
4 superintendent. Any fee charged by the Department of Kentucky State Police and  
5 the Cabinet for Health and Family Services shall be an amount no greater than the  
6 actual cost of processing the request and conducting the search.

- 7 (8) (a) If a school term has begun and a certified or classified position remains  
8 unfilled or if a vacancy occurs during a school term, a superintendent may  
9 employ an individual, who will have supervisory or disciplinary authority over  
10 minors, on probationary status pending receipt of the criminal history  
11 background check and a name-based background check of child abuse and  
12 neglect records maintained by the Cabinet for Health and Family Services.  
13 Application for the criminal record and for a name-based background check  
14 of child abuse and neglect records maintained by the Cabinet for Health  
15 and Family Services of a probationary employee shall be made no later than  
16 the date probationary employment begins.
- 17 (b) Employment shall be contingent on the receipt of the criminal history  
18 background check documenting that the probationary employee has no record  
19 of a sex crime nor as a violent offender as defined in KRS 17.165.
- 20 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,  
21 probationary employment under this section shall terminate on receipt by the  
22 school district of a criminal history background check documenting a record  
23 of a sex crime or as a violent offender as defined in KRS 17.165 and no  
24 further procedures shall be required.
- 25 (d) The provisions of KRS 161.790 shall apply to terminate employment of a  
26 certified employee on the basis of a criminal record other than a record of a  
27 sex crime or as a violent offender as defined in KRS 17.165.

- 1 (9) (a) Each application or renewal form, provided by the employer to an applicant  
2 for a classified position, shall conspicuously state the following: "FOR THIS  
3 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE  
4 CRIMINAL HISTORY BACKGROUND CHECK AND A NAME-BASED  
5 BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT  
6 RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND  
7 FAMILY SERVICES AS A CONDITION OF EMPLOYMENT. UNDER  
8 CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY  
9 BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF  
10 EMPLOYMENT."
- 11 (b) Each application or renewal form, provided by the employer to an applicant  
12 for a certified position, shall conspicuously state the following: "FOR THIS  
13 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND  
14 STATE CRIMINAL HISTORY BACKGROUND CHECK AND A NAME-  
15 BASED BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT  
16 RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND  
17 FAMILY SERVICES AS A CONDITION OF EMPLOYMENT."
- 18 (c) Each application form for a district position shall require the applicant to:
- 19 1. Identify the states in which he or she has maintained residency,  
20 including the dates of residency; and
  - 21 2. Provide picture identification.
- 22 (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a  
23 nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- 24 (11) A school-based decision-making council parent member, as defined under KRS  
25 160.345, shall submit to a state and national fingerprint-supported criminal history  
26 background check by the Department of Kentucky State Police and the Federal  
27 Bureau of Investigation and a name-based background check of child abuse and

1        *neglect records maintained by the Cabinet for Health and Family Services*. The  
2 results of the state criminal history background check and the results of the national  
3 criminal history background check, if requested, *and the results of a name-based*  
4 *background check of child abuse and neglect records maintained by the Cabinet*  
5 *for Health and Family Services* shall be sent to the district superintendent. Any fee  
6 charged by the Department of Kentucky State Police *and the Cabinet for Health*  
7 *and Family Services* shall be an amount no greater than the actual cost of  
8 processing the request and conducting the search. A parent member may serve prior  
9 to the receipt of the criminal history background check report but shall be removed  
10 from the council on receipt by the school district of a report documenting a record  
11 of a sex crime or criminal offense against a victim who is a minor as defined in  
12 KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further  
13 procedures shall be required.

14 (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,  
15 when an employee of the school district is charged with any offense which is  
16 classified as a felony, the superintendent may transfer the employee to a second  
17 position until such time as the employee is found not guilty, the charges are  
18 dismissed, the employee is terminated, or the superintendent determines that further  
19 personnel action is not required. The employee shall continue to be paid at the same  
20 rate of pay he or she received prior to the transfer. If an employee is charged with an  
21 offense outside of the Commonwealth, this provision may also be applied if the  
22 charge would have been treated as a felony if committed within the Commonwealth.  
23 Transfers shall be made to prevent disruption of the educational process and district  
24 operations and in the interest of students and staff and shall not be construed as  
25 evidence of misconduct.

26 *(13) (a) Every two (2) years of employment of each certified and classified employee*  
27 *of the school district, the superintendent shall require a name-based*

1           *background check of child abuse and neglect records maintained by the*  
 2           *Cabinet for Health and Family Services. Any results from the name-based*  
 3           *background check shall be sent to the superintendent.*

4           *(b) If a certified or classified employee transfers from a district and seeks*  
 5           *employment in another district, a name-based background check of child*  
 6           *abuse and neglect records maintained by the Cabinet for Health and Family*  
 7           *Services shall be conducted upon the completion of four (4) years of*  
 8           *employment from the last name-based background check of child abuse and*  
 9           *neglect records maintained by the Cabinet for Health and Family Services.*  
 10           *Any results from the name-based background check shall be sent to the*  
 11           *hiring superintendent.*

12           ➔Section 7. KRS 17.545 is amended to read as follows:

13           (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000)  
 14           feet of a high school, middle school, elementary school, preschool, publicly owned  
 15           playground, or licensed day care facility. The measurement shall be taken in a  
 16           straight line from the nearest property line of the school to the nearest property line  
 17           of the registrant's place of residence.

18           (2) No registrant, as defined in KRS 17.500, nor any person residing outside of  
 19           Kentucky who would be required to register under KRS 17.510 if the person resided  
 20           in Kentucky, shall be on the clearly defined grounds of a high school, middle  
 21           school, elementary school, preschool, *publicly owned playground*, or licensed day  
 22           care facility, except with the advance written permission of the school principal, the  
 23           school board, *the playground's owner or managing authority*, or the day care  
 24           director that has been given after full disclosure of the person's status as a registrant  
 25           or sex offender from another state and all registrant information as required in KRS  
 26           17.500.

27           (3) For purposes of this section:

- 1 (a) The registrant shall have the duty to ascertain whether any property listed in  
2 subsection (1) of this section is within one thousand (1,000) feet of the  
3 registrant's residence; and
- 4 (b) If a new facility opens, the registrant shall be presumed to know and, within  
5 ninety (90) days, shall comply with this section.
- 6 (4) Any person who violates subsection (1) of this section shall be guilty of:
- 7 (a) A Class A misdemeanor for a first offense; and  
8 (b) A Class D felony for the second and each subsequent offense.
- 9 (5) Any registrant residing within one thousand (1,000) feet of a high school, middle  
10 school, elementary school, preschool, publicly owned playground, or licensed day  
11 care facility on July 12, 2006, shall move and comply with this section within ninety  
12 (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set forth  
13 under subsection (4) of this section.
- 14 (6) This section shall not apply to a youthful offender probated or paroled during his or  
15 her minority or while enrolled in an elementary or secondary education program.

16 ➔Section 8. KRS 17.500 is amended to read as follows:

17 As used in KRS 17.500 to 17.580:

- 18 (1) "Approved provider" means a mental health professional licensed or certified in  
19 Kentucky whose scope of practice includes providing mental health treatment  
20 services and who is approved by the Sex Offender Risk Assessment Advisory  
21 Board, under administrative regulations promulgated by the board, to provide  
22 comprehensive sex offender presentence evaluations or treatment to adults and  
23 youthful offenders, as defined in KRS 600.020;
- 24 (2) "Cabinet" means the Justice and Public Safety Cabinet;
- 25 (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense  
26 against a victim who is a minor" means any of the following offenses if the  
27 victim is under the age of eighteen (18) at the time of the commission of the



1 offense:

- 2 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
- 3 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a
- 4 parent;
- 5 3. Sex crime;
- 6 4. Promoting a sexual performance of a minor, as set forth in KRS
- 7 531.320;
- 8 5. Human trafficking involving commercial sexual activity, as set forth in
- 9 KRS 529.100;
- 10 6. **Promoting human trafficking involving commercial sexual activity, as**
- 11 **set forth in KRS 529.110;**
- 12 **7.** Promoting prostitution, as set forth in KRS 529.040, when the defendant
- 13 advances or profits from the prostitution of a person under the age of
- 14 eighteen (18);
- 15 ~~8.[7.]~~ Use of a minor in a sexual performance, as set forth in KRS 531.310;
- 16 ~~9.[8.]~~ Sexual abuse, as set forth in KRS 510.120 and 510.130;
- 17 ~~10.[9.]~~ Unlawful transaction with a minor in the first degree, as set forth
- 18 in KRS 530.064(1)(a);
- 19 ~~11.[10.]~~ Any offense involving a minor or depictions of a minor, as set
- 20 forth in KRS Chapter 531;
- 21 ~~12.[11.]~~ Any attempt to commit any of the offenses described in
- 22 subparagraphs 1. to 10. of this paragraph; and
- 23 ~~13.[12.]~~ Solicitation to commit any of the offenses described in
- 24 subparagraphs 1. to 10. of this paragraph.

25 (b) Conduct which is criminal only because of the age of the victim shall not be  
26 considered a criminal offense against a victim who is a minor if the  
27 perpetrator was under the age of eighteen (18) at the time of the commission

1 of the offense;

2 (4) "Law enforcement agency" means any lawfully organized investigative agency,  
3 sheriff's office, police unit, or police force of federal, state, county, urban-county  
4 government, charter county, city, consolidated local government, or a combination  
5 of these, responsible for the detection of crime and the enforcement of the general  
6 criminal federal or state laws;

7 (5) "Registrant" means:

8 (a) Any person eighteen (18) years of age or older at the time of the offense or  
9 any youthful offender, as defined in KRS 600.020, who has committed:

10 1. A sex crime; or

11 2. A criminal offense against a victim who is a minor; or

12 (b) Any person required to register under KRS 17.510; or

13 (c) Any sexually violent predator; or

14 (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250,  
15 until the diversionary period is successfully completed;

16 (6) "Registrant information" means the name, including any lawful name change  
17 together with the previous name, Social Security number, age, race, sex, date of  
18 birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph,  
19 aliases used, residence, electronic mail address and any instant messaging, chat, or  
20 other Internet communication name identities, a brief description of the crime or  
21 crimes committed, and other information the cabinet determines, by administrative  
22 regulation, may be useful in the identification of registrants;

23 (7) "Residence" means any place where a person sleeps. For the purposes of this statute,  
24 a registrant may have more than one (1) residence. A registrant is required to  
25 register each residence address;

26 (8) "Sex crime" means:

27 (a) A felony offense defined in KRS Chapter 510, or KRS 530.020,

- 1           530.064(1)(a), 531.310, 531.320, or 531.335;
- 2           (b) A felony attempt to commit a felony offense specified in paragraph (a) of this  
3           subsection; or
- 4           (c) A federal felony offense, a felony offense subject to a court-martial of the  
5           United States Armed Forces, or a felony offense from another state or a  
6           territory where the felony offense is similar to a felony offense specified in  
7           paragraph (a) of this subsection;
- 8           (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an  
9           Alford plea to a sex crime as defined in this section, as of the date the verdict is  
10          entered by the court;
- 11          (10) "Sexually violent predator" means any person who has been subjected to  
12          involuntary civil commitment as a sexually violent predator, or a similar  
13          designation, under a state, territory, or federal statutory scheme;
- 14          (11) "The board" means the Sex Offender Risk Assessment Advisory Board created  
15          under KRS 17.554;
- 16          (12) "Victim" has the same meaning as in KRS 421.500;
- 17          (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen  
18          from a person, as prescribed by administrative regulation, that is required to provide  
19          a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the  
20          Department of Kentucky State Police forensic laboratory for law enforcement  
21          identification purposes and inclusion in law enforcement identification databases;  
22          and
- 23          (14) "Authorized personnel" means an agent of state government who is properly trained  
24          in DNA sample collection pursuant to administrative regulation.
- 25          ➔Section 9. KRS 156.095 is amended to read as follows:
- 26          (1) The Kentucky Department of Education shall establish, direct, and maintain a  
27          statewide program of professional development to improve instruction in the public

1 schools.

2 (2) Each local school district superintendent shall appoint a certified school employee  
3 to fulfill the role and responsibilities of a professional development coordinator who  
4 shall disseminate professional development information to schools and personnel.  
5 Upon request by a school council or any employees of the district, the coordinator  
6 shall provide technical assistance to the council or the personnel that may include  
7 assisting with needs assessments, analyzing school data, planning and evaluation  
8 assistance, organizing districtwide programs requested by school councils or groups  
9 of teachers, or other coordination activities.

10 (a) The manner of appointment, qualifications, and other duties of the  
11 professional development coordinator shall be established by Kentucky Board  
12 of Education through promulgation of administrative regulations.

13 (b) The local district professional development coordinator shall participate in the  
14 Kentucky Department of Education annual training program for local school  
15 district professional development coordinators. The training program may  
16 include, but not be limited to, the demonstration of various approaches to  
17 needs assessment and planning; strategies for implementing long-term,  
18 school-based professional development; strategies for strengthening teachers'  
19 roles in the planning, development, and evaluation of professional  
20 development; and demonstrations of model professional development  
21 programs. The training shall include information about teacher learning  
22 opportunities relating to the core content standards. The Kentucky Department  
23 of Education shall regularly collect and distribute this information.

24 (3) The Kentucky Department of Education shall provide or facilitate optional,  
25 professional development programs for certified personnel throughout the  
26 Commonwealth that are based on the statewide needs of teachers, administrators,  
27 and other education personnel. Programs may include classified staff and parents

1 when appropriate. Programs offered or facilitated by the department shall be at  
2 locations and times convenient to local school personnel and shall be made  
3 accessible through the use of technology when appropriate. They shall include  
4 programs that: address the goals for Kentucky schools as stated in KRS 158.6451,  
5 including reducing the achievement gaps as determined by an equity analysis of the  
6 disaggregated student performance data from the state assessment program  
7 developed under KRS 158.6453; engage educators in effective learning processes  
8 and foster collegiality and collaboration; and provide support for staff to incorporate  
9 newly acquired skills into their work through practicing the skills, gathering  
10 information about the results, and reflecting on their efforts. Professional  
11 development programs shall be made available to teachers based on their needs  
12 which shall include but not be limited to the following areas:

- 13 (a) Strategies to reduce the achievement gaps among various groups of students  
14 and to provide continuous progress;
- 15 (b) Curriculum content and methods of instruction for each content area,  
16 including differentiated instruction;
- 17 (c) School-based decision making;
- 18 (d) Assessment literacy;
- 19 (e) Integration of performance-based student assessment into daily classroom  
20 instruction;
- 21 (f) Nongraded primary programs;
- 22 (g) Research-based instructional practices;
- 23 (h) Instructional uses of technology;
- 24 (i) Curriculum design to serve the needs of students with diverse learning styles  
25 and skills and of students of diverse cultures;
- 26 (j) Instruction in reading, including phonics, phonemic awareness,  
27 comprehension, fluency, and vocabulary;

- 1 (k) Educational leadership; and
- 2 (l) Strategies to incorporate character education throughout the curriculum.
- 3 (4) The department shall assist school personnel in assessing the impact of professional  
4 development on their instructional practices and student learning.
- 5 (5) The department shall assist districts and school councils with the development of  
6 long-term school and district improvement plans that include multiple strategies for  
7 professional development based on the assessment of needs at the school level.
- 8 (a) Professional development strategies may include, but are not limited to,  
9 participation in subject matter academies, teacher networks, training institutes,  
10 workshops, seminars, and study groups; collegial planning; action research;  
11 mentoring programs; appropriate university courses; and other forms of  
12 professional development.
- 13 (b) In planning the use of the four (4) days for professional development under  
14 KRS 158.070, school councils and districts shall give priority to programs that  
15 increase teachers' understanding of curriculum content and methods of  
16 instruction appropriate for each content area based on individual school plans.  
17 The district may use up to one (1) day to provide district-wide training and  
18 training that is mandated by state or federal law. Only those employees  
19 identified in the mandate or affected by the mandate shall be required to attend  
20 the training.
- 21 (c) State funds allocated for professional development shall be used to support  
22 professional development initiatives that are consistent with local school  
23 improvement and professional development plans and teachers' individual  
24 growth plans. The funds may be used throughout the year for all staff,  
25 including classified and certified staff and parents on school councils or  
26 committees. A portion of the funds allocated to each school council under  
27 KRS 160.345 may be used to prepare or enhance the teachers' knowledge and

1 teaching practices related to the content and subject matter that are required  
2 for their specific classroom assignments.

3 (6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services  
4 shall post on its Web page suicide prevention awareness information, to  
5 include recognizing the warning signs of a suicide crisis. The Web page shall  
6 include information related to suicide prevention training opportunities  
7 offered by the cabinet or an agency recognized by the cabinet as a training  
8 provider.

9 (b) By September 1, 2010, and September 1 of each year thereafter, every public  
10 middle and high school administrator shall disseminate suicide prevention  
11 awareness information to all middle and high school students. The  
12 information may be obtained from the Cabinet for Health and Family Services  
13 or from a commercially developed suicide prevention training program.

14 (7) (a) The Kentucky Department of Education shall develop and maintain a list of  
15 approved comprehensive evidence-informed trainings on child abuse and  
16 neglect prevention, recognition, and reporting that encompass child physical,  
17 sexual, and emotional abuse and neglect.

18 (b) The trainings shall be Web-based or in-person and cover, at a minimum, the  
19 following topics:

- 20 1. Recognizing child physical, sexual, and emotional abuse and neglect;
- 21 2. Reporting suspected child abuse and neglect in Kentucky as required by  
22 KRS 620.030 and the appropriate documentation;
- 23 3. Responding to the child; and
- 24 4. Understanding the response of child protective services.

25 (c) The trainings shall include a questionnaire or other basic assessment tool upon  
26 completion to document basic knowledge of training components.

27 (d) Each local school board shall adopt one (1) or more trainings from the list

1 approved by the Department of Education to be implemented by schools.

2 (e) All current school administrators, certified personnel, office staff,  
3 instructional assistants, and coaches and extracurricular sponsors who are  
4 employed by the school district shall complete the implemented training or  
5 trainings by January 31, 2017, and then every two (2) years after.

6 (f) All school administrators, certified personnel, office staff, instructional  
7 assistants, and coaches and extracurricular sponsors who are employed by the  
8 school district hired after January 31, 2017, shall complete the implemented  
9 training or trainings within ninety (90) days of being hired and then every two  
10 (2) years after.

11 (g) Every public school shall prominently display the statewide child abuse  
12 hotline number administered by the Cabinet for Health and Family Services,  
13 and the National Human Trafficking Reporting Hotline number  
14 administered by the United States Department for Health and Human  
15 Services.

16 (8) The Department of Education shall establish an electronic consumer bulletin board  
17 that posts information regarding professional development providers and programs  
18 as a service to school district central office personnel, school councils, teachers, and  
19 administrators. Participation on the electronic consumer bulletin board shall be  
20 voluntary for professional development providers or vendors, but shall include all  
21 programs sponsored by the department. Participants shall provide the following  
22 information: program title; name of provider or vendor; qualifications of the  
23 presenters or instructors; objectives of the program; program length; services  
24 provided, including follow-up support; costs for participation and costs of materials;  
25 names of previous users of the program, addresses, and telephone numbers; and  
26 arrangements required. Posting information on the bulletin board by the department  
27 shall not be viewed as an endorsement of the quality of any specific provider or



1 program.

2 (9) The Department of Education shall provide training to address the characteristics  
3 and instructional needs of students at risk of school failure and most likely to drop  
4 out of school. The training shall be developed to meet the specific needs of all  
5 certified and classified personnel depending on their relationship with these  
6 students. The training for instructional personnel shall be designed to provide and  
7 enhance skills of personnel to:

8 (a) Identify at-risk students early in elementary schools as well as at-risk and  
9 potential dropouts in the middle and high schools;

10 (b) Plan specific instructional strategies to teach at-risk students;

11 (c) Improve the academic achievement of students at risk of school failure by  
12 providing individualized and extra instructional support to increase  
13 expectations for targeted students;

14 (d) Involve parents as partners in ways to help their children and to improve their  
15 children's academic progress; and

16 (e) Significantly reduce the dropout rate of all students.

17 (10) The department shall establish teacher academies to the extent funding is available  
18 in cooperation with postsecondary education institutions for elementary, middle  
19 school, and high school faculty in core disciplines, utilizing facilities and faculty  
20 from universities and colleges, local school districts, and other appropriate agencies  
21 throughout the state. Priority for participation shall be given to those teachers who  
22 are teaching core discipline courses for which they do not have a major or minor or  
23 the equivalent. Participation of teachers shall be voluntary.

24 (11) The department shall annually provide to the oversight council established in KRS  
25 15A.063, the information received from local schools pursuant to KRS 158.449.

26 ➔Section 10. KRS 156.070 is amended to read as follows:

27 (1) The Kentucky Board of Education shall have the management and control of the

1 common schools and all programs operated in these schools, including  
2 interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for  
3 the Blind, and community education programs and services.

4 (2) The Kentucky Board of Education may designate an organization or agency to  
5 manage interscholastic athletics in the common schools, provided that the rules,  
6 regulations, and bylaws of any organization or agency so designated shall be  
7 approved by the board, and provided further that any administrative hearing  
8 conducted by the designated managing organization or agency shall be conducted in  
9 accordance with KRS Chapter 13B.

10 (a) The state board or its designated agency shall assure through promulgation of  
11 administrative regulations that if a secondary school sponsors or intends to  
12 sponsor an athletic activity or sport that is similar to a sport for which  
13 National Collegiate Athletic Association members offer an athletic  
14 scholarship, the school shall sponsor the athletic activity or sport for which a  
15 scholarship is offered. The administrative regulations shall specify which  
16 athletic activities are similar to sports for which National Collegiate Athletic  
17 Association members offer scholarships.

18 (b) Beginning with the 2003-2004 school year, the state board shall require any  
19 agency or organization designated by the state board to manage interscholastic  
20 athletics to adopt bylaws that establish as members of the agency's or  
21 organization's board of control one (1) representative of nonpublic member  
22 schools who is elected by the nonpublic school members of the agency or  
23 organization from regions one (1) through eight (8) and one (1) representative  
24 of nonpublic member schools who is elected by the nonpublic member  
25 schools of the agency or organization from regions nine (9) through sixteen  
26 (16). The nonpublic school representatives on the board of control shall not be  
27 from classification A1 or D1 schools. Following initial election of these

1 nonpublic school representatives to the agency's or organization's board of  
2 control, terms of the nonpublic school representatives shall be staggered so  
3 that only one (1) nonpublic school member is elected in each even-numbered  
4 year.

5 (c) The state board or any agency designated by the state board to manage  
6 interscholastic athletics shall not promulgate rules, administrative regulations,  
7 or bylaws that prohibit pupils in grades seven (7) to eight (8) from  
8 participating in any high school sports except for high school varsity soccer  
9 and football, or from participating on more than one (1) school-sponsored  
10 team at the same time in the same sport. The Kentucky Board of Education, or  
11 an agency designated by the board to manage interscholastic athletics, may  
12 promulgate administrative regulations restricting, limiting, or prohibiting  
13 participation in high school varsity soccer and football for students who have  
14 not successfully completed the eighth grade.

15 (d) Every local board of education shall require an annual medical examination  
16 performed and signed by a physician, physician assistant, advanced practice  
17 registered nurse, or chiropractor, if performed within the professional's scope  
18 of practice, for each student seeking eligibility to participate in any school  
19 athletic activity or sport. The Kentucky Board of Education or any  
20 organization or agency designated by the state board to manage interscholastic  
21 athletics shall not promulgate administrative regulations or adopt any policies  
22 or bylaws that are contrary to the provisions of this paragraph.

23 (e) Any student who turns nineteen (19) years of age prior to August 1 shall not  
24 be eligible for high school athletics in Kentucky. Any student who turns  
25 nineteen (19) years of age on or after August 1 shall remain eligible for that  
26 school year only. An exception to the provisions of this paragraph shall be  
27 made, and the student shall be eligible for high school athletics in Kentucky if

1 the student:

- 2 1. Qualified for exceptional children services and had an individual  
3 education program developed by an admissions and release committee  
4 (ARC) while the student was enrolled in the primary school program;
- 5 2. Was retained in the primary school program because of an ARC  
6 committee recommendation; and
- 7 3. Has not completed four (4) consecutive years or eight (8) consecutive  
8 semesters of eligibility following initial promotion from grade eight (8)  
9 to grade nine (9).

10 (f) 1. The state board or any agency designated by the state board to manage  
11 interscholastic athletics shall promulgate administrative regulations that  
12 permit a school district to employ or assign nonteaching or noncertified  
13 personnel or personnel without postsecondary education credit hours to  
14 serve in a coaching position. The administrative regulations shall give  
15 preference to the hiring or assignment of certified personnel in coaching  
16 positions.

17 2. A person employed in a coaching position shall be a high school  
18 graduate and at least twenty-one (21) years of age and shall submit to a  
19 criminal background check in accordance with KRS 160.380.

20 3. The administrative regulations shall specify post-hire requirements for  
21 persons employed in coaching positions.

22 4. The regulations shall permit a predetermined number of hours of  
23 professional development training approved by the state board or its  
24 designated agency to be used in lieu of postsecondary education credit  
25 hour requirements.

26 5. A local school board may specify post-hire requirements for personnel  
27 employed in coaching positions in addition to those specified in

1                    subparagraph 3. of this paragraph.

2        (3)    (a)    The Kentucky Board of Education is hereby authorized to lease from the State  
3                    Property and Buildings Commission, or others, whether public or private, any  
4                    lands, buildings, structures, installations, and facilities suitable for use in  
5                    establishing and furthering television and related facilities as an aid or  
6                    supplement to classroom instruction, throughout the Commonwealth, and for  
7                    incidental use in any other proper public functions. The lease may be for any  
8                    initial term commencing with the date of the lease and ending with the next  
9                    ensuing June 30, which is the close of the then-current fiscal biennium of the  
10                    Commonwealth, with exclusive options in favor of the board to renew the  
11                    same for successive ensuing bienniums, July 1 in each even year to June 30 in  
12                    the next ensuing even year; and the rentals may be fixed at the sums in each  
13                    biennium, if renewed, sufficient to enable the State Property and Buildings  
14                    Commission to pay therefrom the maturing principal of and interest on, and  
15                    provide reserves for, any revenue bonds which the State Property and  
16                    Buildings Commission may determine to be necessary and sufficient, in  
17                    agreement with the board, to provide the cost of acquiring the television and  
18                    related facilities, with appurtenances, and costs as may be incident to the  
19                    issuance of the bonds.

20            (b)    Each option of the Kentucky Board of Education to renew the lease for a  
21                    succeeding biennial term may be exercised at any time after the adjournment  
22                    of the session of the General Assembly at which appropriations shall have  
23                    been made for the operation of the state government for such succeeding  
24                    biennial term, by notifying the State Property and Buildings Commission in  
25                    writing, signed by the chief state school officer, and delivered to the secretary  
26                    of the Finance and Administration Cabinet as a member of the commission.  
27                    The option shall be deemed automatically exercised, and the lease

1 automatically renewed for the succeeding biennium, effective on the first day  
2 thereof, unless a written notice of the board's election not to renew shall have  
3 been delivered in the office of the secretary of the Finance and Administration  
4 Cabinet before the close of business on the last working day in April  
5 immediately preceding the beginning of the succeeding biennium.

6 (c) The Kentucky Board of Education shall not itself operate leased television  
7 facilities, or undertake the preparation of the educational presentations or  
8 films to be transmitted thereby, but may enter into one (1) or more contracts to  
9 provide therefor, with any public agency and instrumentality of the  
10 Commonwealth having, or able to provide, a staff with proper technical  
11 qualifications, upon which agency and instrumentality the board, through the  
12 chief state school officer and the Department of Education, is represented in  
13 such manner as to coordinate matters of curriculum with the curricula  
14 prescribed for the public schools of the Commonwealth. Any contract for the  
15 operation of the leased television or related facilities may permit limited and  
16 special uses of the television or related facilities for other programs in the  
17 public interest, subject to the reasonable terms and conditions as the board and  
18 the operating agency and instrumentality may agree upon; but any contract  
19 shall affirmatively forbid the use of the television or related facilities, at any  
20 time or in any manner, in the dissemination of political propaganda or in  
21 furtherance of the interest of any political party or candidate for public office,  
22 or for commercial advertising. No lease between the board and the State  
23 Property and Buildings Commission shall bind the board to pay rentals for  
24 more than one (1) fiscal biennium at a time, subject to the aforesaid renewal  
25 options. The board may receive and may apply to rental payments under any  
26 lease and to the cost of providing for the operation of the television or related  
27 facilities not only appropriations which may be made to it from state funds,

1 from time to time, but also contributions, gifts, matching funds, devises, and  
2 bequests from any source, whether federal or state, and whether public or  
3 private, so long as the same are not conditioned upon any improper use of the  
4 television or related facilities in a manner inconsistent with the provisions of  
5 this subsection.

6 (4) The state board may, on the recommendation and with the advice of the chief state  
7 school officer, prescribe, print, publish, and distribute at public expense such  
8 administrative regulations, courses of study, curriculums, bulletins, programs,  
9 outlines, reports, and placards as each deems necessary for the efficient  
10 management, control, and operation of the schools and programs under its  
11 jurisdiction. All administrative regulations published or distributed by the board  
12 shall be enclosed in a booklet or binder on which the words "informational copy"  
13 shall be clearly stamped or printed.

14 (5) Upon the recommendation of the chief state school officer or his designee, the state  
15 board shall establish policy or act on all matters relating to programs, services,  
16 publications, capital construction and facility renovation, equipment, litigation,  
17 contracts, budgets, and all other matters which are the administrative responsibility  
18 of the Department of Education.

19 **(6) The state board shall, on the recommendation and with the advice of the chief**  
20 **state school officer, address matters pertaining to the health and well-being of**  
21 **Kentucky schoolchildren, including establishing a policy of age-appropriate**  
22 **education programs regarding the recognition of child physical, sexual, and**  
23 **emotional abuse and neglect and human trafficking, and how to report suspected**  
24 **abuse.**

25 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO  
26 READ AS FOLLOWS:

27 **(1) If, as a result of dependency, neglect, or abuse, custody of a child is granted to the**

1 cabinet through an emergency, temporary, or permanent court order, the cabinet  
 2 shall notify the principal, assistant principal, and guidance counselor of the  
 3 school in which the child is enrolled of the names of the persons authorized to  
 4 contact the child at school, or remove the child from the school grounds, in  
 5 accordance with school visitation or communication policy.

6 (2) In the case of a child who is not yet school age but is attending a daycare or Head  
 7 Start program, the cabinet shall notify the owner and director of the facility.

8 (3) The notification required by this section shall be provided to the school:

9 (a) Orally within one (1) business day of the day that a court order is entered  
 10 and again on any day that a change is made with regard to persons  
 11 authorized to contact or remove the child from school. If the school is  
 12 closed, then notification shall be provided on the next day the school is  
 13 open; and

14 (b) By written document within forty-eight (48) hours following a change of  
 15 custody or change in contact or removal authority.

16 (4) The cabinet shall not be required to provide the information detailed in this  
 17 section once the court order under which the cabinet acts is rescinded or  
 18 otherwise expires.

19 ➔Section 12. KRS 413.249 is amended to read as follows:

20 (1) As used in this section:

21 (a) "Childhood sexual assault" means an act or series of acts against a person less  
 22 than eighteen (18) years old and which meets the criteria defining a felony in  
 23 KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110,  
 24 529.100 where the offense involves commercial sexual activity, 529.110  
 25 where the offense involves commercial sexual activity, 530.020, 530.064,  
 26 531.310, or 531.320. No prior criminal prosecution or conviction of the civil  
 27 defendant for the act or series of acts shall be required to bring a civil action



- 1 for redress of childhood sexual assault;
- 2 (b) "Childhood sexual abuse" means an act or series of acts against a person less  
3 than eighteen (18) years old and which meets the criteria defining a  
4 misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150.  
5 No prior criminal prosecution or conviction of the civil defendant for the act  
6 or series of acts shall be required to bring a civil action for redress of  
7 childhood sexual abuse;
- 8 (c) "Child" means a person less than eighteen (18) years old; and
- 9 (d) "Injury or illness" means either a physical or psychological injury or illness.
- 10 (2) A civil action for recovery of damages for injury or illness suffered as a result of  
11 childhood sexual abuse or childhood sexual assault shall be brought before  
12 whichever of the following periods last expires:
- 13 (a) Within ten (10)~~five (5)~~ years of the commission of the act or the last of a  
14 series of acts by the same perpetrator;
- 15 (b) Within ten (10)~~five (5)~~ years of the date the victim knew, or should have  
16 known, of the act; or
- 17 (c) Within ten (10)~~five (5)~~ years after the victim attains the age of eighteen (18)  
18 years.
- 19 (3) If a complaint is filed alleging that an act of childhood sexual assault or childhood  
20 sexual abuse occurred more than ten (10)~~five (5)~~ years prior to the date that the  
21 action is commenced, the complaint shall be accompanied by a motion to seal the  
22 record and the complaint shall immediately be sealed by the clerk of the court. The  
23 complaint shall remain sealed until:
- 24 (a) The court rules upon the motion to seal;
- 25 (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is  
26 dismissed, the complaint and any related papers or pleadings shall remain  
27 sealed unless opened by a higher court; or

1 (c) The defendant files an answer and a motion to seal the record upon grounds  
 2 that a valid factual defense exists, to be raised in a motion for summary  
 3 judgment pursuant to CR 56. The record shall remain sealed by the clerk until  
 4 the court rules upon the defendant's motion to close the record. If the court  
 5 grants the motion to close, the record shall remain sealed until the defendant's  
 6 motion for summary judgment is granted. The complaint, motions, and other  
 7 related papers or pleadings shall remain sealed unless opened by a higher  
 8 court.

9 ➔Section 13. KRS 510.020 is amended to read as follows:

10 (1) Whether or not specifically stated, it is an element of every offense defined in this  
 11 chapter that the sexual act was committed without consent of the victim.

12 (2) Lack of consent results from:

13 (a) Forcible compulsion;

14 (b) Incapacity to consent; or

15 (c) If the offense charged is sexual abuse, any circumstances in addition to  
 16 forcible compulsion or incapacity to consent in which the victim does not  
 17 expressly or impliedly acquiesce in the actor's conduct.

18 (3) A person is deemed incapable of consent when he or she is:

19 (a) Less than sixteen (16) years old;

20 (b) **Sixteen (16) or seventeen (17) years old and the actor is at least ten (10)**  
 21 **years older than the victim at the time of the sexual act;**

22 **(c)** An individual with an intellectual disability or an individual that suffers from  
 23 a mental illness;

24 **(d)**~~(e)~~ Mentally incapacitated;

25 **(e)**~~(d)~~ Physically helpless; or

26 **(f)**~~(e)~~ Under the care or custody of a state or local agency pursuant to court  
 27 order and the actor is employed by or working on behalf of the state or local

1 agency.

2 (4) The provisions of subsection (3)(e) of this section shall not apply to persons who  
3 are lawfully married to each other and no court order is in effect prohibiting contact  
4 between the parties.

5 ➔Section 14. KRS 510.030 is amended to read as follows:

6 In any prosecution under this chapter in which the victim's lack of consent is based solely  
7 on his incapacity to consent because he was less than sixteen (16) years old, **or sixteen**  
8 **(16) or seventeen (17) years old and the offender was at least ten (10) years older at the**  
9 **time of the offense,** an individual with an intellectual disability, mentally incapacitated,  
10 or physically helpless, the defendant may prove in exculpation that at the time he engaged  
11 in the conduct constituting the offense he did not know of the facts or conditions  
12 responsible for such incapacity to consent.

13 ➔Section 15. KRS 510.060 is amended to read as follows:

14 (1) A person is guilty of rape in the third degree when:

15 (a) He or she engages in sexual intercourse with another person who is incapable  
16 of consent because he or she is an individual with an intellectual disability;

17 (b) Being twenty-one (21) years old or more, he or she engages in sexual  
18 intercourse with another person less than sixteen (16) years old;

19 (c) Being twenty-one (21) years old or more, he or she engages in sexual  
20 intercourse with another person less than eighteen (18) years old and for  
21 whom he or she provides a foster family home as defined in KRS 600.020;

22 (d) **Being at least ten (10) years older than a victim who is sixteen (16) or**  
23 **seventeen (17) years old at the time of sexual intercourse, he or she engages**  
24 **in sexual intercourse with the victim;**

25 (e) Being a person in a position of authority or position of special trust, as defined  
26 in KRS 532.045, he or she engages in sexual intercourse with a minor under  
27 eighteen (18) years old with whom he or she comes into contact as a result of

1 that position; or

2 ~~(f)(e)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the  
3 Department of Corrections, Department of Juvenile Justice, or a detention  
4 facility as defined in KRS 520.010, or of an entity under contract with either  
5 department or a detention facility for the custody, supervision, evaluation, or  
6 treatment of offenders, he or she subjects a person who he or she knows is  
7 incarcerated, supervised, evaluated, or treated by the Department of  
8 Corrections, Department of Juvenile Justice, detention facility, or contracting  
9 entity, to sexual intercourse.

10 (2) Rape in the third degree is a Class D felony.

11 ➔Section 16. KRS 510.090 is amended to read as follows:

12 (1) A person is guilty of sodomy in the third degree when:

13 (a) He or she engages in deviate sexual intercourse with another person who is  
14 incapable of consent because he or she is an individual with an intellectual  
15 disability;

16 (b) Being twenty-one (21) years old or more, he or she engages in deviate sexual  
17 intercourse with another person less than sixteen (16) years old; or

18 (c) **Being at least ten (10) years older than a victim who is sixteen (16) or**  
19 **seventeen (17) years old at the time of deviate sexual intercourse, he or she**  
20 **engages in deviate sexual intercourse with the victim;**

21 **(d)** Being twenty-one (21) years old or more, he or she engages in deviate sexual  
22 intercourse with another person less than eighteen (18) years old and for  
23 whom he or she provides a foster family home as defined in KRS 600.020;

24 ~~(e)(d)~~ Being a person in a position of authority or position of special trust, as  
25 defined in KRS 532.045, he or she engages in deviate sexual intercourse with  
26 a minor less than eighteen (18) years old with whom he or she comes into  
27 contact as a result of that position; or

1       ~~(f)(e)~~     Being a jailer, or an employee, contractor, vendor, or volunteer of the  
 2           Department of Corrections, Department of Juvenile Justice, or a detention  
 3           facility as defined in KRS 520.010, or of an entity under contract with either  
 4           department or a detention facility for the custody, supervision, evaluation, or  
 5           treatment of offenders, he or she subjects a person who he or she knows is  
 6           incarcerated, supervised, evaluated, or treated by the Department of  
 7           Corrections, Department of Juvenile Justice, detention facility, or contracting  
 8           entity, to deviate sexual intercourse.

9       (2)   Sodomy in the third degree is a Class D felony.

10       ➔Section 17.   KRS 15.232 is amended to read as follows:

11       The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys  
 12       and county attorneys in the investigation and prosecution of offenses under KRS 433.890  
 13       to 433.896, 433.900 to 433.906, 506.120(3)(b),~~and~~ 512.090, 529.100, and 529.110.

14       ➔Section 18.   KRS 176.415 is amended to read as follows:

15       (1)   The Department of Highways shall display the following flags at each rest area  
 16       along the Commonwealth's interstate and turnpike system:

17       ~~(a)(1)~~   The flag of the United States of America, to honor our country and the  
 18       democratic ideals of our forefathers;

19       ~~(b)(2)~~   The flag of the Commonwealth of Kentucky, as specified by KRS 2.030,  
 20       to honor the Commonwealth and its citizens; and

21       ~~(c)(3)~~   The flag of the National League of Families of American Prisoners of  
 22       War and Missing in Southeast Asia, the black and white banner commonly  
 23       known as the POW/MIA flag, which symbolizes America's missing service  
 24       members and our unwavering determination to account for them.

25       (2)   The Department of Highways shall post in every restroom located on the premises  
 26       of each rest area in the Commonwealth a printed sign in English and Spanish at  
 27       least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1)

1 inch high, displaying the current telephone hotline number of the National  
 2 Human Trafficking Resource Center or any federally funded successor entity.

3 The sign shall be:

4 (a) Created using gender-neutral language supplied to the Department of  
 5 Highways by the Cabinet for Health and Family Services; and

6 (b) Posted in a prominent place easily seen by patrons.

7 ➔Section 19. KRS 600.020 is amended to read as follows:

8 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

9 (1) "Abused or neglected child" means a child whose health or welfare is harmed or  
 10 threatened with harm when:

11 (a) His or her parent, guardian, person in a position of authority or special trust, as  
 12 defined in KRS 532.045, or other person exercising custodial control or  
 13 supervision of the child:

- 14 1. Inflicts or allows to be inflicted upon the child physical or emotional  
 15 injury as defined in this section by other than accidental means;
- 16 2. Creates or allows to be created a risk of physical or emotional injury as  
 17 defined in this section to the child by other than accidental means;
- 18 3. Engages in a pattern of conduct that renders the parent incapable of  
 19 caring for the immediate and ongoing needs of the child including, but  
 20 not limited to, parental incapacity due to alcohol and other drug abuse as  
 21 defined in KRS 222.005;
- 22 4. Continuously or repeatedly fails or refuses to provide essential parental  
 23 care and protection for the child, considering the age of the child;
- 24 5. Commits or allows to be committed an act of sexual abuse, sexual  
 25 exploitation, or prostitution upon the child;
- 26 6. Creates or allows to be created a risk that an act of sexual abuse, sexual  
 27 exploitation, or prostitution will be committed upon the child;

- 1           7. Abandons or exploits the child;
- 2           8. Does not provide the child with adequate care, supervision, food,  
3           clothing, shelter, and education or medical care necessary for the child's  
4           well-being. A parent or other person exercising custodial control or  
5           supervision of the child legitimately practicing the person's religious  
6           beliefs shall not be considered a negligent parent solely because of  
7           failure to provide specified medical treatment for a child for that reason  
8           alone. This exception shall not preclude a court from ordering necessary  
9           medical services for a child;
- 10          9. Fails to make sufficient progress toward identified goals as set forth in  
11          the court-approved case plan to allow for the safe return of the child to  
12          the parent that results in the child remaining committed to the cabinet  
13          and remaining in foster care for fifteen (15) of the most recent twenty-  
14          two (22) months; or
- 15          (b) A person twenty-one (21) years of age or older commits or allows to be  
16          committed an act of sexual abuse, sexual exploitation, or prostitution upon a  
17          child less than sixteen (16) years of age;
- 18          (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.  
19          675(11);
- 20          (3) "Aggravated circumstances" means the existence of one (1) or more of the  
21          following conditions:
- 22                  (a) The parent has not attempted or has not had contact with the child for a period  
23                  of not less than ninety (90) days;
- 24                  (b) The parent is incarcerated and will be unavailable to care for the child for a  
25                  period of at least one (1) year from the date of the child's entry into foster care  
26                  and there is no appropriate relative placement available during this period of  
27                  time;

- 1 (c) The parent has sexually abused the child and has refused available treatment;
- 2 (d) The parent has been found by the cabinet to have engaged in abuse of the  
3 child that required removal from the parent's home two (2) or more times in  
4 the past two (2) years; or
- 5 (e) The parent has caused the child serious physical injury;
- 6 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow  
7 the reasonable directives of his or her parents, legal guardian, or person exercising  
8 custodial control or supervision other than a state agency, which behavior results in  
9 danger to the child or others, and which behavior does not constitute behavior that  
10 would warrant the filing of a petition under KRS Chapter 645;
- 11 (5) "Beyond the control of school" means any child who has been found by the court to  
12 have repeatedly violated the lawful regulations for the government of the school as  
13 provided in KRS 158.150, and as documented in writing by the school as a part of  
14 the school's petition or as an attachment to the school's petition. The petition or  
15 attachment shall describe the student's behavior and all intervention strategies  
16 attempted by the school;
- 17 (6) "Boarding home" means a privately owned and operated home for the boarding and  
18 lodging of individuals which is approved by the Department of Juvenile Justice or  
19 the cabinet for the placement of children committed to the department or the  
20 cabinet;
- 21 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 22 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,  
23 and who have completed a course of education and training in juvenile detention  
24 developed and approved by, the Department of Juvenile Justice after consultation  
25 with other appropriate state agencies;
- 26 (9) "Child" means any person who has not reached his or her eighteenth birthday,  
27 unless otherwise provided;



- 1 (10) "Child-caring facility" means any facility or group home other than a state facility,  
2 Department of Juvenile Justice contract facility or group home, or one certified by  
3 an appropriate agency as operated primarily for educational or medical purposes,  
4 providing residential care on a twenty-four (24) hour basis to children not related by  
5 blood, adoption, or marriage to the person maintaining the facility;
- 6 (11) "Child-placing agency" means any agency, other than a state agency, which  
7 supervises the placement of children in foster family homes or child-caring facilities  
8 or which places children for adoption;
- 9 (12) "Clinical treatment facility" means a facility with more than eight (8) beds  
10 designated by the Department of Juvenile Justice or the cabinet for the treatment of  
11 mentally ill children. The treatment program of such facilities shall be supervised by  
12 a qualified mental health professional;
- 13 (13) "Commitment" means an order of the court which places a child under the custodial  
14 control or supervision of the Cabinet for Health and Family Services, Department of  
15 Juvenile Justice, or another facility or agency until the child attains the age of  
16 eighteen (18) unless otherwise provided by law;
- 17 (14) "Community-based facility" means any nonsecure, homelike facility licensed,  
18 operated, or permitted to operate by the Department of Juvenile Justice or the  
19 cabinet, which is located within a reasonable proximity of the child's family and  
20 home community, which affords the child the opportunity, if a Kentucky resident, to  
21 continue family and community contact;
- 22 (15) "Complaint" means a verified statement setting forth allegations in regard to the  
23 child which contain sufficient facts for the formulation of a subsequent petition;
- 24 (16) "Court" means the juvenile session of District Court unless a statute specifies the  
25 adult session of District Court or the Circuit Court;
- 26 (17) "Court-designated worker" means that organization or individual delegated by the  
27 Administrative Office of the Courts for the purposes of placing children in

- 1 alternative placements prior to arraignment, conducting preliminary investigations,  
2 and formulating, entering into, and supervising diversion agreements and  
3 performing such other functions as authorized by law or court order;
- 4 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 5 (19) "Department" means the Department for Community Based Services;
- 6 (20) "Dependent child" means any child, other than an abused or neglected child, who is  
7 under improper care, custody, control, or guardianship that is not due to an  
8 intentional act of the parent, guardian, or person exercising custodial control or  
9 supervision of the child;
- 10 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of  
11 conduct subject to the jurisdiction of the court who requires a restricted or closely  
12 supervised environment for his or her own or the community's protection;
- 13 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within  
14 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any  
15 period of detention prior to adjudication;
- 16 (23) "Diversion agreement" means a mechanism designed to hold a child accountable for  
17 his or her behavior and, if appropriate, securing services to serve the best interest of  
18 the child and to provide redress for that behavior without court action and without  
19 the creation of a formal court record;
- 20 (24) "Eligible youth" means a person who:
- 21 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 22 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 23 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in  
24 order to participate in state or federal educational programs or to establish  
25 independent living arrangements;
- 26 (25) "Emergency shelter" is a group home, private residence, foster home, or similar  
27 homelike facility which provides temporary or emergency care of children and

- 1 adequate staff and services consistent with the needs of each child;
- 2 (26) "Emotional injury" means an injury to the mental or psychological capacity or  
3 emotional stability of a child as evidenced by a substantial and observable  
4 impairment in the child's ability to function within a normal range of performance  
5 and behavior with due regard to his or her age, development, culture, and  
6 environment as testified to by a qualified mental health professional;
- 7 (27) "Evidence-based practices" means policies, procedures, programs, and practices  
8 proven by scientific research to reliably produce reductions in recidivism;
- 9 (28) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 10 (29) "Foster family home" means a private home in which children are placed for foster  
11 family care under supervision of the cabinet or a licensed child-placing agency;
- 12 (30) "Graduated sanction" means any of a continuum of accountability measures,  
13 programs, and sanctions, ranging from less restrictive to more restrictive in nature,  
14 that may include but are not limited to:
- 15 (a) Electronic monitoring;
- 16 (b) Drug and alcohol screening, testing, or monitoring;
- 17 (c) Day or evening reporting centers;
- 18 (d) Reporting requirements;
- 19 (e) Community service; and
- 20 (f) Rehabilitative interventions such as family counseling, substance abuse  
21 treatment, restorative justice programs, and behavioral or mental health  
22 treatment;
- 23 (31) "Habitual runaway" means any child who has been found by the court to have been  
24 absent from his or her place of lawful residence without the permission of his or her  
25 custodian for at least three (3) days during a one (1) year period;
- 26 (32) "Habitual truant" means any child who has been found by the court to have been  
27 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a

- 1           one (1) year period;
- 2       (33) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or  
3           public facility, health care facility, or part thereof, which is approved by the cabinet  
4           to treat children;
- 5       (34) "Independent living" means those activities necessary to assist a committed child to  
6           establish independent living arrangements;
- 7       (35) "Informal adjustment" means an agreement reached among the parties, with  
8           consultation, but not the consent, of the victim of the crime or other persons  
9           specified in KRS 610.070 if the victim chooses not to or is unable to participate,  
10          after a petition has been filed, which is approved by the court, that the best interest  
11          of the child would be served without formal adjudication and disposition;
- 12       (36) "Intentionally" means, with respect to a result or to conduct described by a statute  
13          which defines an offense, that the actor's conscious objective is to cause that result  
14          or to engage in that conduct;
- 15       (37) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that  
16          the program developed on the child's behalf is no more harsh, hazardous, or  
17          intrusive than necessary; or involves no restrictions on physical movements nor  
18          requirements for residential care except as reasonably necessary for the protection  
19          of the child from physical injury; or protection of the community, and is conducted  
20          at the suitable available facility closest to the child's place of residence to allow for  
21          appropriate family engagement;
- 22       (38) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS  
23          Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 24       (39) "Near fatality" means an injury that, as certified by a physician, places a child in  
25          serious or critical condition;
- 26       (40) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 27       (41) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who

- 1 has not been otherwise charged with a status or public offense;
- 2 (42) "Nonsecure facility" means a facility which provides its residents access to the  
3 surrounding community and which does not rely primarily on the use of physically  
4 restricting construction and hardware to restrict freedom;
- 5 (43) "Nonsecure setting" means a nonsecure facility or a residential home, including a  
6 child's own home, where a child may be temporarily placed pending further court  
7 action. Children before the court in a county that is served by a state operated secure  
8 detention facility, who are in the detention custody of the Department of Juvenile  
9 Justice, and who are placed in a nonsecure alternative by the Department of  
10 Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 11 (44) "Out-of-home placement" means a placement other than in the home of a parent,  
12 relative, or guardian, in a boarding home, clinical treatment facility, community-  
13 based facility, detention facility, emergency shelter, foster family home, hospital,  
14 nonsecure facility, physically secure facility, residential treatment facility, or youth  
15 alternative center;
- 16 (45) "Parent" means the biological or adoptive mother or father of a child;
- 17 (46) "Person exercising custodial control or supervision" means a person or agency that  
18 has assumed the role and responsibility of a parent or guardian for the child, but that  
19 does not necessarily have legal custody of the child;
- 20 (47) "Petition" means a verified statement, setting forth allegations in regard to the child,  
21 which initiates formal court involvement in the child's case;
- 22 (48) "Physical injury" means substantial physical pain or any impairment of physical  
23 condition;
- 24 (49) "Physically secure facility" means a facility that relies primarily on the use of  
25 construction and hardware such as locks, bars, and fences to restrict freedom;
- 26 (50) "Public offense action" means an action, excluding contempt, brought in the interest  
27 of a child who is accused of committing an offense under KRS Chapter 527 or a

1 public offense which, if committed by an adult, would be a crime, whether the same  
2 is a felony, misdemeanor, or violation, other than an action alleging that a child  
3 sixteen (16) years of age or older has committed a motor vehicle offense;

4 (51) "Qualified mental health professional" means:

5 (a) A physician licensed under the laws of Kentucky to practice medicine or  
6 osteopathy, or a medical officer of the government of the United States while  
7 engaged in the performance of official duties;

8 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or  
9 osteopathy, or a medical officer of the government of the United States while  
10 engaged in the practice of official duties, and who is certified or eligible to  
11 apply for certification by the American Board of Psychiatry and Neurology,  
12 Inc.;

13 (c) A psychologist with the health service provider designation, a psychological  
14 practitioner, a certified psychologist, or a psychological associate licensed  
15 under the provisions of KRS Chapter 319;

16 (d) A licensed registered nurse with a master's degree in psychiatric nursing from  
17 an accredited institution and two (2) years of clinical experience with mentally  
18 ill persons, or a licensed registered nurse with a bachelor's degree in nursing  
19 from an accredited institution who is certified as a psychiatric and mental  
20 health nurse by the American Nurses Association and who has three (3) years  
21 of inpatient or outpatient clinical experience in psychiatric nursing and who is  
22 currently employed by a hospital or forensic psychiatric facility licensed by  
23 the Commonwealth or a psychiatric unit of a general hospital or a regional  
24 comprehensive care center;

25 (e) A licensed clinical social worker licensed under the provisions of KRS  
26 335.100, or a certified social worker licensed under the provisions of KRS  
27 335.080 with three (3) years of inpatient or outpatient clinical experience in

- 1 psychiatric social work and currently employed by a hospital or forensic  
2 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a  
3 general hospital or a regional comprehensive care center;
- 4 (f) A marriage and family therapist licensed under the provisions of KRS 335.300  
5 to 335.399 with three (3) years of inpatient or outpatient clinical experience in  
6 psychiatric mental health practice and currently employed by a hospital or  
7 forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit  
8 of a general hospital, or a regional comprehensive care center; or
- 9 (g) A professional counselor credentialed under the provisions of KRS 335.500 to  
10 335.599 with three (3) years of inpatient or outpatient clinical experience in  
11 psychiatric mental health practice and currently employed by a hospital or  
12 forensic facility licensed by the Commonwealth, a psychiatric unit of a general  
13 hospital, or a regional comprehensive care center;
- 14 (52) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.  
15 sec. 675(10);
- 16 (53) "Residential treatment facility" means a facility or group home with more than eight  
17 (8) beds designated by the Department of Juvenile Justice or the cabinet for the  
18 treatment of children;
- 19 (54) "Retain in custody" means, after a child has been taken into custody, the continued  
20 holding of the child by a peace officer for a period of time not to exceed twelve (12)  
21 hours when authorized by the court or the court-designated worker for the purpose  
22 of making preliminary inquiries;
- 23 (55) "Risk and needs assessment" means an actuarial tool scientifically proven to  
24 identify specific factors and needs that are related to delinquent and noncriminal  
25 misconduct;
- 26 (56) "School personnel" means those certified persons under the supervision of the local  
27 public or private education agency;

- 1 (57) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 2 (58) "Secure juvenile detention facility" means any physically secure facility used for the  
3 secure detention of children other than any facility in which adult prisoners are  
4 confined;
- 5 (59) "Serious physical injury" means physical injury which creates a substantial risk of  
6 death or which causes serious and prolonged disfigurement, prolonged impairment  
7 of health, or prolonged loss or impairment of the function of any bodily member or  
8 organ;
- 9 (60) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions  
10 in which the parent, guardian, person in a position of authority or special trust, as  
11 defined in KRS 532.045, or other person having custodial control or supervision of  
12 the child or responsibility for his or her welfare, uses or allows, permits, or  
13 encourages the use of the child for the purposes of the sexual stimulation of the  
14 perpetrator or another person;
- 15 (61) "Sexual exploitation" includes but is not limited to a situation in which a parent,  
16 guardian, person in a position of authority or special trust, as defined in KRS  
17 532.045, or other person having custodial control or supervision of a child or  
18 responsible for his or her welfare, allows, permits, or encourages the child to engage  
19 in an act which constitutes prostitution under Kentucky law; or a parent, guardian,  
20 person in a position of authority or special trust, as defined in KRS 532.045, or  
21 other person having custodial control or supervision of a child or responsible for his  
22 or her welfare, allows, permits, or encourages the child to engage in an act of  
23 obscene or pornographic photographing, filming, or depicting of a child as provided  
24 for under Kentucky law;
- 25 (62) "Social service worker" means any employee of the cabinet or any private agency  
26 designated as such by the secretary of the cabinet or a social worker employed by a  
27 county or city who has been approved by the cabinet to provide, under its



1 supervision, services to families and children;

2 (63) "Staff secure facility for residential treatment" means any setting which assures that  
3 all entrances and exits are under the exclusive control of the facility staff, and in  
4 which a child may reside for the purpose of receiving treatment;

5 (64) (a) "Status offense action" is any action brought in the interest of a child who is  
6 accused of committing acts, which if committed by an adult, would not be a  
7 crime. Such behavior shall not be considered criminal or delinquent and such  
8 children shall be termed status offenders. Status offenses shall include:

- 9 1. Beyond the control of school or beyond the control of parents;
- 10 2. Habitual Runaway;
- 11 3. Habitual truant;
- 12 4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
- 13 5. Alcohol offenses as provided in KRS 244.085.

14 (b) Status offenses shall not include violations of state or local ordinances which  
15 may apply to children such as a violation of curfew;

16 (65) "Take into custody" or "take into protective custody" means the procedure by  
17 which a peace officer or other authorized person initially assumes custody of a  
18 child. A child may be taken into custody or protective custody for a period of time  
19 not to exceed two (2) hours;

20 (66) "Transitional living support" means all benefits to which an eligible youth is  
21 entitled upon being granted extended or reinstated commitment to the cabinet by the  
22 court;

23 (67) "Transition plan" means a plan that is personalized at the direction of the youth that:

24 (a) Includes specific options on housing, health insurance, education, local  
25 opportunities for mentors and continuing support services, and workforce  
26 supports and employment services; and

27 (b) Is as detailed as the youth may elect;

- 1 (68) "Valid court order" means a court order issued by a judge to a child alleged or found  
2 to be a status offender:
- 3 (a) Who was brought before the court and made subject to the order;
- 4 (b) Whose future conduct was regulated by the order;
- 5 (c) Who was given written and verbal warning of the consequences of the  
6 violation of the order at the time the order was issued and whose attorney or  
7 parent or legal guardian was also provided with a written notice of the  
8 consequences of violation of the order, which notification is reflected in the  
9 record of the court proceedings; and
- 10 (d) Who received, before the issuance of the order, the full due process rights  
11 guaranteed by the Constitution of the United States;
- 12 (69) "Violation" means any offense, other than a traffic infraction, for which a sentence  
13 of a fine only can be imposed;
- 14 (70) "Youth alternative center" means a nonsecure facility, approved by the Department  
15 of Juvenile Justice, for the detention of juveniles, both prior to adjudication and  
16 after adjudication, which meets the criteria specified in KRS 15A.320; and
- 17 (71) "Youthful offender" means any person regardless of age, transferred to Circuit  
18 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently  
19 convicted in Circuit Court.
- 20 ➔Section 20. KRS 610.190 is amended to read as follows:
- 21 (1) The law relating to the persons by whom and the circumstances under which a  
22 person may be arrested for a public offense shall be applicable to children, but the  
23 taking of a child into custody under such law shall not be termed an arrest until the  
24 court has made the decision to try the child in Circuit or District Court as an adult.  
25 The law relating to bail shall not be applicable to children detained in accordance  
26 with this chapter unless the child is subject to being tried in Circuit or District Court  
27 as an adult.

- 1 (2) A peace officer may take a child into protective custody if:~~the officer suspects the~~  
2 ~~child to be a runaway.~~
- 3 (a) The child has been reported as a missing child pursuant to KRS 17.450;  
4 (b) There is reasonable cause to believe the child may be the victim of human  
5 trafficking pursuant to KRS 620.029 or 620.030, and KRS 529.120 shall  
6 also apply;  
7 (c) There is reasonable cause to believe that the child is dependent, neglected,  
8 or abused pursuant to KRS 620.030; or  
9 (d) The officer has reasonable grounds to believe the child is a habitual  
10 runaway as authorized pursuant to subsection (2) of Section 23 of this Act.
- 11 (3) Pursuant to KRS 620.040(5)(c), a peace officer may hold a child in protective  
12 custody without the consent of the parent or other person exercising custodial  
13 control or supervision if there exist reasonable grounds for the officer to believe  
14 that the child is in danger of imminent death or serious physical injury, is being  
15 sexually abused, or is a victim of human trafficking and that the parents or other  
16 person exercising custodial control or supervision are unable or unwilling to  
17 protect the child. The officer or the person to whom the officer entrusts the child  
18 shall, within twelve (12) hours of taking the child into protective custody, request  
19 the court to issue an emergency custody order.
- 20 (4) A child taken into protective custody under paragraph (a), (b), or (c) of subsection  
21 (2) of this section or subsection (3) of this section~~[this subsection]~~ shall not be  
22 considered to have been arrested and may be held in an emergency shelter, crisis  
23 stabilization unit, hospital or clinic, or a child-caring or child-placing facility.
- 24 (5) A child taken into protective custody under subsection (2)(d) of this section may  
25 be held at the locations specified in subsection (4) of this section or in those  
26 locations provided in KRS 610.220(1), while~~[after which]~~ the officer  
27 conducts~~[shall proceed with]~~ an initial investigation as provided for in KRS

1           610.200.

2   ~~(6)~~~~(3)~~   When a child is taken into custody by a person other than a peace officer, such  
3           person shall as soon as possible place the child in the custody of a peace officer.

4           ➔Section 21. KRS 610.200 is amended to read as follows:

5   (1)   When a peace officer has taken or received a child into custody on a charge of  
6           committing an offense, the officer shall immediately inform the child of his  
7           constitutional rights and afford him the protections required thereunder, notify the  
8           parent, or if the child is committed, the Department of Juvenile Justice or the  
9           cabinet, as appropriate, and if the parent is not available, then a relative, guardian,  
10          or person exercising custodial control or supervision of the child, that the child has  
11          been taken into custody, give an account of specific charges against the child,  
12          including the specific statute alleged to have been violated, and the reasons for  
13          taking the child into custody.

14   (2)   (a)   When a peace officer has taken or received a child into protective custody ~~on~~  
15          ~~suspicion of being a runaway~~, the officer shall immediately notify:

- 16           1.   The child's parent, guardian, or person exercising custodial control or  
17           supervision of the child, if determined;  
18           2.   The cabinet or Department of Juvenile Justice, if appropriate; and  
19           3.   The court-designated worker.

20          (b)   If the parent, guardian, or other person exercising custodial control or  
21          supervision is identified and notified, the peace officer may retain custody of  
22          the child for a reasonable period to allow the person notified the opportunity  
23          to arrive at the officer's location and collect the child.

24          (c)   If the parent, guardian, or other person exercising custodial control or  
25          supervision cannot be identified or located, the peace officer may retain  
26          custody of the child for a period of time not to exceed two (2) hours to  
27          continue his or her investigation.

- 1 (d) If, at the conclusion of the peace officer's investigation, the parent, guardian,  
2 or person exercising custodial control or supervision of the child is identified  
3 and notified, the peace officer shall return the child to the custody of that  
4 person and ~~may~~<sup>shall</sup> file a status offense complaint~~[case]~~ with the court-  
5 designated worker.
- 6 (e) If, at the conclusion of the peace officer's investigation, the parent, guardian,  
7 or person exercising custodial control or supervision of the child cannot be  
8 identified or located, or that person refuses to collect the child, the peace  
9 officer shall file a complaint to initiate detention or placement procedures  
10 pending a detention or custody hearing~~[pursuant to KRS 610.012]~~.
- 11 (3) Unless the child is subject to trial as an adult or unless the nature of the offense or  
12 other circumstances are such as to indicate the necessity of retaining the child in  
13 custody, the officer shall release the child to the custody of his parent or if the child  
14 is committed, the Department of Juvenile Justice or the cabinet, as appropriate; or if  
15 the parent is not available, then a relative, guardian, or person exercising custodial  
16 control or supervision or other responsible person or agency approved by the court  
17 upon the written promise, signed by such person or agency, to bring the child to the  
18 court at a stated time or at such time as the court may order. The written promise,  
19 accompanied by a written report by the officer, shall be submitted forthwith to the  
20 court or court-designated worker and shall detail the reasons for having taken  
21 custody of the child, the release of the child, the person to whom the child was  
22 released, and the reasons for the release.
- 23 (4) (a) If the person fails to produce the child as agreed or upon notice from the  
24 Court as provided in subsection (3) of this section, a summons, warrant, or  
25 custody order may be issued for the apprehension of the person or of the child,  
26 or both.
- 27 (b) If the person notified to collect a child taken into protective

1            custody [~~suspected runaway pursuant to subsection (2)(a) of this section~~] fails  
2            or refuses to collect the child, the peace officer shall notify the county  
3            attorney, who may file a charge of endangering the welfare of a minor, and the  
4            cabinet.

5        (5) The release of a child pursuant to this section shall not preclude a peace officer from  
6            proceeding with a complaint against a child or any other person.

7        (6) Unless the child is subject to trial as an adult, if the child is not released, the peace  
8            officer shall contact the court-designated worker who may:

9            (a) Release the child to his parents;

10          (b) Release the child to such other persons or organizations as are authorized by  
11            law;

12          (c) Release the child to either of the above subject to stated conditions; or

13          (d) Except as provided in subsection (7) of this section, authorize the peace  
14            officer to retain custody of the child for an additional period not to exceed  
15            twelve (12) hours during which the peace officer may transport the child to a  
16            secure juvenile detention facility or a nonsecure facility. If the child is retained  
17            in custody, the court-designated worker shall give notice to the child's parents  
18            or person exercising custodial control or supervision of the fact that the child  
19            is being retained in custody.

20        (7) (a) Except as provided in paragraph (b) of this subsection, no child ten (10) years  
21            of age or under shall be taken to or placed in a juvenile detention facility.

22          (b) Any child ten (10) years of age or under who has been charged with the  
23            commission of a capital offense or with an offense designated as a Class A or  
24            Class B felony may be taken to or placed in a secure juvenile detention facility  
25            or youth alternative center when there is no available less restrictive  
26            alternative.

27        ➔Section 22. KRS 610.220 is amended to read as follows:

- 1 (1) Except as otherwise provided by statute, if an officer takes or receives a child into  
2 custody on an allegation of committing a public offense or into protective custody  
3 pursuant to subsection (2) of Section 23 of this Act and charged as a habitual ~~on~~  
4 ~~being a suspected~~ runaway, the child may be held at a police station, secure  
5 juvenile detention facility, youth alternative center, a nonsecure facility, or, as  
6 necessary, in a hospital or clinic for the following purposes:
- 7 (a) Identification and booking;
  - 8 (b) Attempting to notify the parents or person exercising custodial control or  
9 supervision of the child, a relative, guardian, other responsible person, or the  
10 cabinet;
  - 11 (c) Photographing;
  - 12 (d) Fingerprinting;
  - 13 (e) Physical examinations, including examinations for evidence;
  - 14 (f) Evidence collection, including scientific tests;
  - 15 (g) Records checks;
  - 16 (h) Determining whether the child is subject to trial as an adult; and
  - 17 (i) Other inquiries of a preliminary nature.
- 18 (2) A nonoffender, as defined in Section 19 of this Act, shall not be placed in secure  
19 or nonsecure detention pursuant to KRS 610.266 and 620.095.
- 20 (3) A child ~~may be~~ held in custody pursuant to subsection (1) of this section may be  
21 held ~~this section~~ for a period of time not to exceed two (2) hours, unless an  
22 extension of time is granted. Permission for an extension of time may be granted by  
23 the court, trial commissioner, or court-designated worker pursuant to KRS  
24 610.200(6)(d) and the child may be retained in custody for up to an additional ten  
25 (10) hours at a facility of the type listed in subsection (1) of this section except for  
26 an intermittent holding facility for the period of retention.
- 27 (4)~~(3)~~ Any child held in custody pursuant to this section shall be sight and sound

1 separated from any adult prisoners held in secure custody at the same location, and  
 2 shall not be handcuffed to or otherwise securely attached to any stationary object.

3 ➔Section 23. KRS 630.030 is amended to read as follows:

4 ~~[Under the provisions of this chapter a child may be taken into custody by any peace~~  
 5 ~~officer.]~~

6 (1) **A child may be taken into custody by any peace officer** pursuant to an order of the  
 7 court for failure to appear before the court for a previous status offense.~~[,] or]~~

8 (2) **A child may be taken into protective custody** if there are reasonable grounds to  
 9 believe that the child ~~is a~~~~[has been an]~~ habitual runaway from his parent or person  
 10 exercising custodial control or supervision of the child.

11 **(3) The provisions of Section 21 of this Act shall apply when any child is taken into**  
 12 **protective custody under this section.**

13 ➔Section 24. KRS 15A.068 is amended to read as follows:

14 (1) If, during the course of screening, assessing, or providing services to a child  
 15 committed to or in the custody of the department **or a person or organization**  
 16 **operating a facility pursuant to KRS 15A.220**, there is reasonable cause to believe  
 17 that the child is a victim of human trafficking as defined in KRS 529.010, the  
 18 department **or a person or organization operating a facility pursuant to KRS**  
 19 **15A.220** shall:

20 (a) File a report with the Cabinet for Health and Family Services pursuant to KRS  
 21 620.030;

22 (b) Notify the child's attorney that the child may be a victim of human trafficking;  
 23 and

24 (c) If the child does not pose a threat to public safety, petition the court to transfer  
 25 custody from the department to the Cabinet for Health and Family Services.

26 (2) After consultation with agencies serving victims of human trafficking, the  
 27 department shall promulgate administrative regulations for the treatment of child



1 victims of human trafficking who are committed to or in the custody of the  
2 department and pose a threat to public safety but do not qualify to be in the custody  
3 of the Cabinet for Health and Family Services under subsection (1)(c) of this  
4 section. The administrative regulations shall include provisions for appropriate  
5 screening, assessment, placement, treatment, and services for these children, the  
6 training of staff, and collaboration with service providers.

7 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO  
8 READ AS FOLLOWS:

9 *(1) In a criminal or civil proceeding, any property or material that portrays child*  
10 *pornography or a sexual performance by a minor as defined in this chapter shall*  
11 *remain secured or locked in the care, custody, and control of a law enforcement*  
12 *agency, the prosecutor, or the court.*

13 *(2) Notwithstanding any other law or rule of court, a court shall deny, in any*  
14 *proceeding, any request by the defendant to copy, photograph, duplicate, or*  
15 *otherwise reproduce any property or material that portrays a sexual performance*  
16 *by a minor or constitutes child pornography so long as law enforcement, the*  
17 *prosecutor, or the court makes the property or material reasonably available to*  
18 *the defendant.*

19 *(3) For the purposes of this section, property or material shall be deemed reasonably*  
20 *available to the defendant if the prosecutor provides ample opportunity at a*  
21 *designated facility for the inspection, viewing, and examination of the property or*  
22 *material that portrays a sexual performance by a child or constitutes child*  
23 *pornography by the defendant, his or her attorney, or any individual whom the*  
24 *defendant uses as an expert during either the discovery process or a court*  
25 *proceeding.*

26 ➔Section 26. KRS 500.080 is amended to read as follows:

27 As used in the Kentucky Penal Code, unless the context otherwise requires:

- 1 (1) "Actor" means any natural person and, where relevant, a corporation or an  
2 unincorporated association;
- 3 (2) "Crime" means a misdemeanor or a felony;
- 4 (3) "Dangerous instrument" means any instrument, including parts of the human body  
5 when a serious physical injury is a direct result of the use of that part of the human  
6 body, article, or substance which, under the circumstances in which it is used,  
7 attempted to be used, or threatened to be used, is readily capable of causing death or  
8 serious physical injury;
- 9 (4) "Deadly weapon" means any of the following:
- 10 (a) A weapon of mass destruction;
- 11 (b) Any weapon from which a shot, readily capable of producing death or other  
12 serious physical injury, may be discharged;
- 13 (c) Any knife other than an ordinary pocket knife or hunting knife;
- 14 (d) Billy, nightstick, or club;
- 15 (e) Blackjack or slapjack;
- 16 (f) Nunchaku karate sticks;
- 17 (g) Shuriken or death star; or
- 18 (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- 19 (5) "Felony" means an offense for which a sentence to a term of imprisonment of at  
20 least one (1) year in the custody of the Department of Corrections may be imposed;
- 21 (6) "Government" means the United States, any state, county, municipality, or other  
22 political unit, or any department, agency, or subdivision of any of the foregoing, or  
23 any corporation or other association carrying out the functions of government;
- 24 (7) "He" means any natural person and, where relevant, a corporation or an  
25 unincorporated association;
- 26 (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions.  
27 Unless the context otherwise clearly requires, "law" also includes the common law;

- 1 (9) "Minor" means any person who has not reached the age of majority as defined in  
2 KRS 2.015;
- 3 (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a  
4 sentence to a term of imprisonment of not more than twelve (12) months can be  
5 imposed;
- 6 (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a  
7 fine is provided by any law of this state or by any law, local law, or ordinance of a  
8 political subdivision of this state or by any law, order, rule, or regulation of any  
9 governmental instrumentality authorized by law to adopt the same;
- 10 (12) "Person" means a human being, and where appropriate, a public or private  
11 corporation, an unincorporated association, a partnership, a government, or a  
12 governmental authority;
- 13 (13) "Physical injury" means substantial physical pain or any impairment of physical  
14 condition;
- 15 (14) "Possession" means to have actual physical possession or otherwise to exercise  
16 actual dominion or control over a tangible object;
- 17 (15) "Serious physical injury" means physical injury which creates a substantial risk of  
18 death, or which causes serious and prolonged disfigurement, prolonged impairment  
19 of health, or prolonged loss or impairment of the function of any bodily organ, **For**  
20 **a child (12) years of age or less at the time of the injury, a serious physical injury**  
21 **includes the following:**
- 22 **(a) Bruising near the eyes, or on the head, neck, or lower back overlying the**  
23 **kidneys;**
- 24 **(b) Any bruising severe enough to cause underlying muscle damage as**  
25 **determined by elevated creatine kinase levels in the blood;**
- 26 **(c) Any bruising or soft tissue injury to the genitals that affects the ability to**  
27 **urinate or defecate;**

- 1        (d) Any testicular injury sufficient to put fertility at risk;
- 2        (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 3        (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 4        (g) Any burn requiring hospitalization, debridement in the operating room, IV
- 5                fluids, intubation, or admission to a hospital's intensive care unit;
- 6        (h) Rib fracture;
- 7        (i) Scapula or sternum fractures;
- 8        (j) Any broken bone that requires surgery;
- 9        (k) Head injuries that result in intracranial bleeding, skull fracture, or brain
- 10                injury;
- 11        (l) A concussion that results in the child becoming limp, unresponsive, or
- 12                results in seizure activity;
- 13        (m) Abdominal injuries that indicate internal organ damage regardless of
- 14                whether surgery is required;
- 15        (n) Any injury requiring surgery; and
- 16        (o) Any injury that requires a blood transfusion;
- 17        (16) "Unlawful" means contrary to law or, where the context so requires, not permitted
- 18                by law. It does not mean wrongful or immoral;
- 19        (17) "Violation" means an offense, other than a traffic infraction, for which a sentence to
- 20                a fine only can be imposed; and
- 21        (18) "Weapon of mass destruction" means:
- 22                (a) Any destructive device as defined in KRS 237.030, but not fireworks as
- 23                defined in KRS 227.700;
- 24                (b) Any weapon that is designed or intended to cause death or serious physical
- 25                injury through the release, dissemination, or impact of toxic or poisonous
- 26                chemicals or their precursors;
- 27                (c) Any weapon involving a disease organism; or

1 (d) Any weapon that is designed to release radiation or radioactivity at a level  
2 dangerous to human life.

3 ➔Section 27. The following KRS section is repealed:

4 610.012 Exclusive jurisdiction of District Court or family division of Circuit Court  
5 concerning temporary detention of suspected runaway.

6 ➔Section 28. This Act may be cited as the Child Protection Act of 2017.