

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2019 REGULAR SESSION
Unofficial Document

Amend printed copy of **SB 150/GA**

From page 1, line 3, through page 7, line 9, delete Sections 1 through 3 in their entirety and insert the following in lieu thereof:

"➔Section 1. KRS 527.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Booby trap device" shall have the same meaning as set forth in KRS 237.030.
- (2) "Deface" means to remove, deface, cover, alter, or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
- (3) "Destructive device" shall have the same meaning as set forth in KRS 237.030.
- (4) **"Domestic abuse offense" means a conviction under KRS 403.763, KRS 456.180, or any crime that has as an element the use, attempted use, or threatened use of:**

(a) Physical force;

(b) A deadly weapon; or

(c) A dangerous instrument;

if the relationship between the perpetrator and the victim is that of family members or members of an unmarried couple, as defined in KRS 403.720, or members of a dating relationship, as defined in KRS 456.010.

(5) "Domestic violence protective order" means an order issued after a hearing of which the subject of the order received actual notice and at which the subject had the opportunity to participate, and issued under:

(a) KRS 403.740 that restrains the adverse party from committing acts of domestic violence and abuse, including a foreign protective order as defined in KRS 403.720, if the relationship between the subject of the order and the protected individual is that of family members or members of an unmarried couple; or

(b) KRS 456.060 that restrains the adverse party from committing acts of dating violence and abuse, including a foreign protective order as defined in KRS 456.010, if the relationship between the subject of the order and the protected individual is that of members of a dating relationship.

(6) "Firearm" means any weapon which will expel a projectile by the action of an explosive.

(7) "Handgun" means any pistol or revolver originally designed to be fired by the use of a

Amendment No. _____

Rep. Rep. Nima Kulkarni _____

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: Lyon, Alice _____

Adopted: _____

Date: _____

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single hand, or any other firearm originally designed to be fired by the use of a single hand.

(8) "Physical force" means force used upon or directed toward the body of another person.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of a firearm by a convicted domestic abuser when the person wantonly possesses, purchases, manufactures, or transports a firearm and the person has been convicted of a domestic abuse offense in any state or federal court.

(2) A person is guilty of possession of a firearm by the subject of a domestic violence protective order when:

(a) The person wantonly possesses, purchases, manufactures, or transports a firearm; and

(b) The person is currently subject to a domestic violence protective order, as defined in Section 1 of this Act.

(3) Possession of a firearm by a convicted domestic abuser or subject of a domestic violence protective order is a Class C felony.

(4) The provisions of this section shall apply to any youthful offender who is convicted of a domestic abuse offense, notwithstanding the exceptions contained in KRS 527.100.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) Upon every conviction for a domestic abuse offense and upon the issuance of every domestic violence protective order as defined in Section 1 of this Act, the trial court or issuing court, as applicable, shall inform the offender or adverse party of the firearm prohibition under Section 2 of this Act and of the transfer obligations under this section.

(2) Within twenty-four (24) hours after being informed of the firearm prohibition, a person convicted of a domestic abuse offense or made subject to a domestic violence protective order shall transfer all firearms he or she owns or possesses to the chief of police of the municipality where the person resides, the chief law enforcement officer of the county, or to the sheriff of the county where the person resides.

(3) Any chief of police or sheriff accepting the transfer of firearms under this section shall issue a proof of transfer to the transferring person. The Administrative Office of the Courts shall prepare a proof of transfer form, which shall include at a minimum the name of the person transferring the firearm or firearms, the name of the owner of each firearm, the date of transfer, and the serial number, make, and model of each transferred firearm.

(4) (a) Within three (3) business days after being informed of the firearm prohibition, a person convicted of a domestic abuse offense or made subject to a domestic violence protective order shall either:

1. File a copy of the proof of transfer with the court that entered the conviction or entered the order, as applicable, and attest that all firearms owned or possessed by the person have been transferred in accordance with this section and that the person does not own or possess any other firearms; or

2. Attest to the court that entered the conviction or entered the order, as applicable, that the person does not currently own or possess any firearms or did not own or possess any firearms at the time of the prohibiting conviction or order.

(b) The court that entered the conviction or entered the order, as applicable, shall confirm whether the prohibited person timely complied with the terms of this subsection. Failure to

comply shall constitute contempt of court in addition to any penalties under subsection (8) of this section.

(5) If, upon motion of the prosecutor or a law enforcement officer, the court that entered the conviction or entered the order, as applicable, finds probable cause to believe that a person convicted of a domestic abuse offense or made subject to a domestic violence protective order has failed to transfer any firearms in accordance with this section, the court may order a search for and the removal of all firearms at any location where the judge has probable cause to believe these firearms are located. The judge shall state with specificity the reasons for and the scope of the search and seizure authorized by the order. Proof of transfer as required under subsection (3) of this section shall be issued for any firearms seized under this subsection.

(6) A person convicted of a domestic abuse offense who transfers firearms to a chief of police or sheriff under this section may, within thirty (30) days after transferring the firearms, request to make a one-time transfer to a licensed dealer. After the thirty (30) day period, if a person convicted of a domestic abuse offense has not made such a request, a chief of police or sheriff may dispose of any firearms transferred by the person in accordance with KRS 500.090.

(7) At the expiration of a domestic violence protective order, a chief of police or sheriff shall, at the subject person's request, return any firearms transferred pursuant to subsection (2) of this section. Prior to returning any firearms, the chief of police or sheriff shall determine whether or not the person is eligible to possess a firearm under state and federal law. If the person is ineligible to possess a firearm under state or federal law, the law enforcement agency shall:

(a) Inform the person that a thirty (30) day window for transferring the firearm is available as provided in subsection (6) of this section; or

(b) After thirty (30) days have passed, dispose of the firearms in accordance with KRS 500.090.

(8) A person convicted of a domestic abuse offense or subject to a domestic violence restraining order who does not comply with the terms of this section is guilty of a Class A misdemeanor.

➔Section 4. KRS 403.740 is amended to read as follows:

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

(a) Restraining the adverse party from:

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

- (b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, except that the court shall not order the petitioner to take any affirmative action;
- (c) Directing that either or both of the parties receive counseling services available in the community in domestic violence and abuse cases; and
- (d) Additionally, if applicable:
1. Directing the adverse party to vacate a residence shared by the parties to the action;
 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody, subject to KRS 403.315; and
 3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary child support.
- (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:
- (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;
 - (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
 - (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
 - (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.
- (3) When temporary child support is granted under this section, the court shall enter an order detailing how the child support is to be paid and collected. Child support ordered under this section may be enforced utilizing the same procedures as any other child support order.
- (4) **When a domestic violence order serves to prohibit the adverse party from possessing a firearm under Section 2 of this Act, the court shall inform the adverse party of the firearm possession prohibition and the firearm transfer requirements under Section 3 of this Act.**
- (5) A domestic violence order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.
- ➔Section 5. KRS 456.060 is amended to read as follows:
- (1) Following a hearing ordered under KRS 456.040, if a court finds by a preponderance of the evidence that dating violence and abuse, sexual assault, or stalking has occurred and may again occur, the court may issue an interpersonal protective order:
 - (a) Restraining the adverse party from:
 1. Committing further acts of dating violence and abuse, stalking, or sexual assault;
 2. Any unauthorized contact or communication with the petitioner or other person specified by the court;
 3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;
 4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and

5. Disposing of or damaging any of the property of the parties;
 - (b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of dating violence and abuse, stalking, or sexual assault, except that the court shall not order the petitioner to take any affirmative action; and
 - (c) Directing that either or both of the parties receive counseling services available in the community in dating violence and abuse cases.
- (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:
- (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;
 - (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
 - (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
 - (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.
- (3) **When an interpersonal protection order serves to prohibit the adverse party from possessing a firearm under Section 2 of this Act, the court shall inform the adverse party of the firearm possession prohibition and the firearm transfer requirements under Section 3 of this Act.**
- (4) An interpersonal protective order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order."