

1 AN ACT relating to domestic violence.

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

3 ➔Section 1. KRS 525.135 is amended to read as follows:

4 (1) As used in this section, unless the context otherwise requires, "torture" means the
5 intentional infliction of or subjection to extreme physical pain or injury, motivated
6 by an intent to increase or prolong the pain of the animal.

7 (2) A person is guilty of torture of a dog or cat when he or she without legal
8 justification intentionally tortures a domestic dog or cat.

9 (3) ***A person charged with an offense under this section shall not be eligible for***
10 ***pretrial diversion under Section 2 of this Act.***

11 **(4)** Torture of a dog or cat is a [~~Class A misdemeanor for the first offense and a~~]Class
12 D felony[~~for each subsequent offense if the dog or cat suffers physical injury as a~~
13 ~~result of the torture, and a Class D felony if the dog or cat suffers serious physical~~
14 ~~injury or death as a result of the torture].~~

15 **(5)[(4)]** ***A person convicted of torture of a dog or cat shall not have his or her term***
16 ***of imprisonment suspended, probated, conditionally discharged, or subject to any***
17 ***other form of early release if the person committed the offense with the intent to***
18 ***threaten, intimidate, coerce, harass, or terrorize a:***

19 **(a) *Family member as defined in KRS 403.720; or***

20 **(b) *Person with whom the offender is in a dating relationship as defined in***
21 ***KRS 456.010.***

22 **(6)** Nothing in this section shall apply to the killing or injuring of a dog or cat:

23 (a) In accordance with a license to hunt, fish, or trap;

24 (b) For humane purposes;

25 (c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

26 (d) For purposes relating to sporting activities including but not limited to training
27 for organized dog or cat shows, or other animal shows in which a dog or a cat,

1 or both, participate;

2 (e) For bona fide animal research activities, using dogs or cats, of institutions of
3 higher education; or a business entity registered with the United States
4 Department of Agriculture under the Animal Welfare Act or subject to other
5 federal laws governing animal research;

6 (f) In defense of self or another person against an aggressive or diseased dog or
7 cat;

8 (g) In defense of a domestic animal against an aggressive or diseased dog or cat;

9 (h) For animal or pest control; or

10 (i) For any other purpose authorized by law.

11 ~~(7)(5)~~ Activities of animals engaged in hunting, field trials, dog training other than
12 training a dog to fight for pleasure or profit, and other activities authorized either by
13 a hunting license or by the Department of Fish and Wildlife Resources shall not
14 constitute a violation of this section.

15 ~~(8)(6)~~ The acts specified in this section shall not constitute cruelty to animals under
16 KRS 525.125 or 525.130.

17 ➔Section 2. KRS 533.250 is amended to read as follows:

18 (1) A pretrial diversion program shall be operated in each judicial circuit. The chief
19 judge of each judicial circuit, in cooperation with the Commonwealth's attorney,
20 shall submit a plan for the pretrial diversion program to the Supreme Court for
21 approval on or before December 1, 1999. The pretrial diversion program shall
22 contain the following elements:

23 (a) The program may be utilized for a person charged with a Class D felony
24 offense who has not, within ten (10) years immediately preceding the
25 commission of this offense, been convicted of a felony under the laws of this
26 state, another state, or of the United States, or has not been on probation or
27 parole or who has not been released from the service of any felony sentence

- 1 within ten (10) years immediately preceding the commission of the offense;
- 2 (b) The program shall not be utilized for persons charged with offenses for which
- 3 probation, parole, or conditional discharge is prohibited under KRS 532.045,
- 4 *or for persons charged with an offense under Section 1 of this Act;*
- 5 (c) No person shall be eligible for pretrial diversion more than once in a five (5)
- 6 year period;
- 7 (d) No person shall be eligible for pretrial diversion who has committed a sex
- 8 crime as defined in KRS 17.500. A person who is on pretrial diversion on July
- 9 12, 2006, may remain on pretrial diversion if the person continues to meet the
- 10 requirements of the pretrial diversion and the registration requirements of
- 11 KRS 17.510;
- 12 (e) Any person charged with an offense not specified as precluding a person from
- 13 pretrial diversion under paragraph (b) of this subsection may apply in writing
- 14 to the trial court and the Commonwealth's attorney for entry into a pretrial
- 15 diversion program;
- 16 (f) Any person shall be required to enter an Alford plea or a plea of guilty as a
- 17 condition of pretrial diversion;
- 18 (g) The provisions of KRS 533.251 shall be observed; and
- 19 (h) The program may include as a component referral to the intensive secured
- 20 substance abuse treatment program developed under KRS 196.285 for persons
- 21 charged with a felony offense under KRS Chapter 218A and persons charged
- 22 with a felony offense whose record indicates a history of recent and relevant
- 23 substance abuse who have not previously been referred to the program under
- 24 KRS 533.251.
- 25 (2) Upon the request of the Commonwealth's attorney, a court ordering pretrial
- 26 diversion may order the person to:
- 27 (a) Participate in a global positioning monitoring system program through the use

- 1 of a county-operated program pursuant to KRS 67.372 and 67.374 for all or
2 part of the time during which a pretrial diversion agreement is in effect; or
- 3 (b) Use and pay all costs, including administrative and operating costs, associated
4 with the alcohol monitoring device as defined in KRS 431.068. If the court
5 determines that the defendant is indigent, and a person, county, or other
6 organization has not agreed to pay the costs for the defendant in an attempt to
7 reduce incarceration expenses and increase public safety, the court shall
8 consider other conditions of pretrial diversion.
- 9 (3) A court ordering global positioning monitoring system for a person pursuant to this
10 section shall:
- 11 (a) Require the person to pay all or a part of the monitoring costs based upon the
12 sliding scale determined by the Supreme Court of Kentucky pursuant to KRS
13 403.761 or 456.100 and administrative costs for participating in the system;
- 14 (b) Provide the monitoring system with a written or electronic copy of the
15 conditions of release; and
- 16 (c) Provide the monitoring system with a contact at the office of the
17 Commonwealth's attorney for reporting violations of the monitoring order.
- 18 (4) A person, county, or other organization may voluntarily agree to pay all or a portion
19 of a person's monitoring costs specified in subsection (3) of this section.
- 20 (5) The court shall not order a person to participate in a global positioning monitoring
21 system program unless the person agrees to the monitoring in open court or the
22 court determines that public safety and the nature of the person's crime require the
23 use of a global positioning monitoring system program.
- 24 (6) The Commonwealth's attorney shall make a recommendation upon each application
25 for pretrial diversion to the Circuit Judge in the court in which the case would be
26 tried. The court may approve or disapprove the diversion.
- 27 (7) The court shall assess a diversion supervision fee of a sufficient amount to defray

1 all or part of the cost of participating in the diversion program. Unless the fee is
2 waived by the court in the case of indigency, the fee shall be assessed against each
3 person placed in the diversion program. The fee may be based upon ability to pay.