

1 AN ACT relating to legislative ethics.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) A legislator, legislative agent, or the director of the Legislative Research*  
6 *Commission shall not engage in discrimination, harassment, or sexual*  
7 *harassment of any legislator, legislative agent, or employee of the legislative*  
8 *branch of state government.*

9 *(2) Violation of this section by a legislator, legislative agent, or the director of the*  
10 *Legislative Research Commission is ethical misconduct.*

11 ➔SECTION 2. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO  
12 READ AS FOLLOWS:

13 *As used in Sections 1 to 3 of this Act:*

14 *(1) "Discrimination" means any direct or indirect act or practice of exclusion,*  
15 *distinction, restriction, segregation, limitation, refusal, denial, or any other act or*  
16 *practice of differentiation or preference in treatment of a person or persons, or*  
17 *the aiding, abetting, inciting, coercing, or compelling that is unlawful under KRS*  
18 *Chapter 344;*

19 *(2) "Harassment" means any action taken with the intention of intimidating,*  
20 *harassing, annoying, threatening, physically or verbally abusing, or alarming*  
21 *another person at work, or in a work-related setting;*

22 *(3) (a) "Sexual harassment" means any unwelcome sexual advance, request for*  
23 *sexual favors, or other verbal or physical conduct or communication of a*  
24 *sexual nature if:*

25 *1. Submission to the advances, requests, conduct, or communication is*  
26 *an explicit or implicit term or condition of obtaining or retaining*  
27 *employment;*

- 1           2. Submission to or rejection of the advances, requests, conduct, or  
2           communication affects decisions concerning a person's employment;
- 3           3. The conduct or communication has the purpose or effect of  
4           unreasonably interfering with the person's ability to perform his or  
5           her job functions or of creating a hostile work environment; or
- 6           4. The conduct or communication is sexual harassment as defined in  
7           KRS Chapter 344, Title VII of the Civil Rights Act of 1964, state or  
8           federal case law, or enforced in policy or regulation by the federal  
9           Equal Employment Opportunity Commission or the Kentucky  
10           Commission on Human Rights.

11           (b) "Sexual harassment" includes such conduct as:

- 12           1. Unwanted sexual contact or conduct of any kind, including sexual  
13           flirtations, touching, advances, actions, or propositions, intercourse,  
14           or assault;
- 15           2. Unwelcome verbal communication of a sexual nature, including lewd  
16           comments or innuendo, sexual jokes or references, or offensive  
17           personal references;
- 18           3. Demeaning, insulting, intimidating, or sexually suggestive comments  
19           or behavior directed at a person or in the presence of any person in a  
20           public or private setting;
- 21           4. The display in the workplace of demeaning, insulting, intimidating, or  
22           sexually suggestive objects, pictures, or photographs;
- 23           5. Demeaning, insulting, intimidating, or sexually suggestive written,  
24           recorded, or electronically transmitted messages; or
- 25           6. Other conduct or communication not specifically described but which  
26           is substantially similar to the conduct described in this subsection.

27           (c) A single incident described in this subsection may constitute sexual

1           harassment and whether the incident is welcomed by the person to whom  
2           the incident is directed shall be a factor in determining whether sexual  
3           harassment has occurred; and

4   (4) "Workplace complaint" means a verbal or written allegation of discrimination,  
5           harassment, or sexual harassment submitted by a legislator, employee of the  
6           legislative branch of state government, or legislative agent, concerning an act or  
7           acts allegedly committed by a legislator, legislative agent, or director of the  
8           Legislative Research Commission.

9           ➔SECTION 3. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO  
10 READ AS FOLLOWS:

11   (1) The Legislative Ethics Commission shall have jurisdiction to investigate and  
12           proceed upon receipt of a written or oral workplace complaint from a legislator,  
13           legislative agent, or an employee of the legislative branch of state government  
14           regarding discrimination, harassment, or sexual harassment allegedly committed  
15           by:

16           (a) A legislator;

17           (b) A legislative agent; or

18           (c) The director of the Legislative Research Commission.

19   (2) An allegation of discrimination, harassment, or sexual harassment by an  
20           employee of the legislative branch of state government against another employee  
21           of the legislative branch of state government shall be referred to the Legislative  
22           Research Commission for resolution under its personnel policies and guidelines.  
23           Except as provided in subsection (1)(c) of this section, the Legislative Ethics  
24           Commission shall not have jurisdiction under this section in cases concerning an  
25           allegation of discrimination, harassment, or sexual harassment by an employee  
26           of the legislative branch of state government against another employee of the  
27           legislative branch of state government.

- 1 (3) The commission shall establish a legislative ethics telephone tip line to allow  
2 employees of the legislative branch of state government, legislators, or legislative  
3 agents to report workplace complaints of discrimination, harassment, or sexual  
4 harassment.
- 5 (4) The commission and the Legislative Research Commission shall ensure that the  
6 telephone number for the legislative ethics telephone tip line is available to  
7 employees of the legislative branch of state government, legislators, and  
8 legislative agents by multiple methods, including:
- 9 (a) The Legislative Research Commission shall print the legislative ethics  
10 telephone tip line number on posters to be placed on bulletin boards or  
11 other prominent locations in any building where staff of the legislative  
12 branch of state government are stationed, and where legislative agents and  
13 legislators are present, including the Capitol Building and Capitol Annex;
- 14 (b) The Legislative Research Commission shall include the legislative ethics  
15 telephone tip line number in any employment manual developed and  
16 printed by the Legislative Research Commission for use by legislators,  
17 legislative agents, or employees of the legislative branch of state  
18 government;
- 19 (c) The Legislative Research Commission shall include information about the  
20 legislative ethics telephone tip line in any form of training for legislators,  
21 legislative agents, or employees of the legislative branch of state  
22 government;
- 23 (d) The Legislative Research Commission shall inform legislators, legislative  
24 agents, and employees of the legislative branch of state government of the  
25 existence of the legislative ethics telephone tip line number through periodic  
26 electronic mail messages; and
- 27 (e) The Legislative Research Commission shall place the legislative ethics

1           telephone tip line number on its staff and public Web pages.

2   (5) The legislative ethics telephone tip line shall be operational twenty-four (24)  
3   hours a day, seven (7) days a week. The commission shall provide staff for the  
4   legislative ethics telephone tip line during business hours and provide for a  
5   recorded line to receive messages at all other times. If a workplace complaint is  
6   received on the tip line or by other means, commission staff shall make telephone  
7   or electronic mail contact with the complainant no later than the first business  
8   day after receipt of the workplace complaint to confirm receipt and details of the  
9   workplace complaint. Workplace complaints may also be made in person to the  
10   commission staff at the commission's office during regular business hours, or  
11   may be sent to commission staff via electronic mail.

12   (6) Within two (2) hours of receipt of a workplace complaint, or the confirmation  
13   required by subsection (5) of this section, a commission staff person shall  
14   forward the workplace complaint received to the executive director of the  
15   commission or his or her designee in writing on a form approved by the  
16   commission.

17   (7) Within twenty-four (24) hours of receipt of a workplace complaint or  
18   confirmation required in subsection (5) of this section, the executive director of  
19   the commission or his or her designee shall either:

20   (a) Make an initial determination as to whether the workplace complaint meets  
21   the criteria for consideration by the commission under this section, and if it  
22   does not, shall inform the complainant that the commission does not have  
23   jurisdiction and shall not notify the alleged violator; or

24   (b) If the initial determination is that the workplace complaint meets the  
25   criteria for consideration by the commission under this section, notify the  
26   alleged violator of the receipt of the workplace complaint and provide the  
27   alleged violator with a written statement setting forth the allegations

1           provided by the complainant. Within seven (7) business days of the  
2           executive director's notification under this paragraph, the alleged violator  
3           may file a written response to the allegations with the executive director.

4   (8) No later than seven (7) business days after the executive director receives the  
5           response or the time expires for the filing of the response, the commission chair,  
6           vice chair, executive director, or the designee of the chair, vice chair, or executive  
7           director shall interview the complainant, the alleged violator, and any other  
8           person with knowledge or information relevant to the workplace complaint.

9   (9) No later than fourteen (14) business days after the completion of the interviews,  
10           the commission shall give notice of the status of the workplace complaint and a  
11           general statement of the applicable law to the complainant and the alleged  
12           violator.

13   (10) Within thirty (30) business days of receipt of a workplace complaint or the  
14           confirmation required in subsection (5) of this section, after consultation with the  
15           complainant, the workplace complaint file shall be closed if the commission chair  
16           and vice chair agree the workplace complaint is resolved, or agree that there is no  
17           credible allegation of discrimination, harassment, or sexual harassment. The  
18           commission chair and vice chair may refer a workplace complaint to another  
19           federal or state agency if they determine it does not fall under the jurisdiction of  
20           the commission.

21   (11) If the commission chair and vice chair do not agree that a workplace complaint  
22           of discrimination, harassment, or sexual harassment is resolved, and they agree  
23           that there is a credible allegation of discrimination, harassment, or sexual  
24           harassment, the commission's enforcement counsel shall file a complaint as  
25           provided in subsection (1)(a) of Section 6 of this Act. A legislator, legislative  
26           agent, or an employee of the legislative branch of state government may file a  
27           complaint of discrimination, harassment, or sexual harassment against a person

- 1 listed in subsection (1) of this section under Section 6 of this Act at any time.
- 2 (12) The provisions of KRS 61.805 to 61.850 or 61.870 to 61.884 notwithstanding, the  
3 testimony, records, and work products of the commission, staff, investigators,  
4 complainants, alleged violators, witnesses, and meetings and other activities  
5 relating to the commission's or the Legislative Research Commission's duties and  
6 responsibilities under this section shall be privileged and confidential, and shall  
7 not be subject to discovery, disclosure, or production upon the order or subpoena  
8 of a court of law or any other federal or state agency with subpoena power, and  
9 shall not be disclosed by the commission staff, commission members, or any other  
10 person. The name of any person making a workplace complaint shall remain  
11 confidential and shall not be disclosed without the express written permission of  
12 the complainant, except:
- 13 (a) To the extent disclosure is necessary to gather information from the alleged  
14 violator or any other person with knowledge of information relevant to the  
15 workplace complaint;
- 16 (b) If a workplace complaint is filed pursuant to Section 6 of this Act, the  
17 confidentiality provisions of Section 6 of this Act and KRS 6.691 shall  
18 apply. The commission may refer any evidence to the proper prosecutorial  
19 authorities pursuant to KRS 6.691(6); or
- 20 (c) As provided in the summary statistical report required under subsection (14)  
21 of this section.
- 22 (13) A legislator, legislative agent, or employee of the legislative branch of state  
23 government shall not subject to reprisal any person who files a workplace  
24 complaint of discrimination, harassment, or sexual harassment under this  
25 section or use or threaten to use authority or influence that would discourage or  
26 interfere with any workplace complaint made to the commission under this  
27 section. Violation of this subsection shall be ethical misconduct.

1 (14) No later than August 1 of each year, the commission shall compile and publish  
2 an annual summary statistical report of workplace complaints of discrimination,  
3 harassment, or sexual harassment received during the previous fiscal year. The  
4 summary statistical report shall be distributed to each member of the commission,  
5 each member of the Legislative Research Commission, and the director of the  
6 Legislative Research Commission. The summary statistical report shall include:

7 (a) A synopsis of each incident reported, including:

8 1. The date the initial workplace complaint was made;

9 2. The date each case was resolved; or

10 3. The date on which a workplace complaint was filed under subsection  
11 (11) of this section, or under which a matter was referred under  
12 subsection (12)(b) of this section;

13 (b) The status of each incident reported, if not resolved as of the date of  
14 publication of the annual summary; and

15 (c) The total number of workplace complaints of discrimination, harassment,  
16 or sexual harassment received, categorized by status of the case, and  
17 method of resolution. No individually identifiable information shall be  
18 included in the summary statistical report unless the commission previously  
19 released the information subject to Section 6 of this Act or KRS 6.691.

20 (15) Nothing in this section shall preclude a legislator, legislative agent, or an  
21 employee of the legislative branch of state government from pursuing other  
22 methods of addressing alleged incidents of discrimination, harassment, or sexual  
23 harassment, including reporting incidents to management staff of the legislative  
24 branch of state government or of filing a complaint with the commission under  
25 Section 6 of this Act.

26 (16) Employees of the legislative branch of state government who report  
27 discrimination, harassment, or sexual harassment in the workplace may seek



1        assistance from the Kentucky Employee Assistance Program established under  
 2        KRS Chapter 18A or from private health professionals of their choice for matters  
 3        related to workplace complaints.

4        ➔SECTION 4. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO  
 5 READ AS FOLLOWS:

6        If a provision of KRS 6.601 to 6.849 is designated as a misdemeanor or a felony, an  
 7        alleged violation of the provision may be adjudicated by the commission as ethical  
 8        misconduct.

9        ➔Section 5. KRS 6.661 is amended to read as follows:

10        (1) The commission may employ an executive director who shall serve at the pleasure  
 11        of the commission.

12        (2) The executive director shall:

13        (a) Administer the daily business of the commission and perform the duties  
 14        assigned by the commission; and

15        (b) Employ and remove other personnel as necessary to carry out the provisions  
 16        of this code.

17        (3) The commission shall fix the compensation of its staff, and the compensation shall  
 18        be commensurate with that paid to executive branch officials with a similar level of  
 19        responsibilities.

20        (4) The staff of the commission shall be exempt from the provisions of KRS 18A.005  
 21        to 18A.202.

22        (5) A member of the staff of the commission during his or her term of employment  
 23        shall be subject to the provisions of KRS 6.651(7)~~(8)}~~.

24        ➔Section 6. KRS 6.686 is amended to read as follows:

25        (1) (a) The commission shall have jurisdiction to investigate and proceed as to any  
 26        violation of this code upon the filing of a complaint. The complaint shall be a  
 27        written statement alleging a violation against one (1) or more named persons

1 and stating the essential facts constituting the violation charged. The  
2 complaint shall be made under oath and signed by the complaining party  
3 before a person who is legally empowered to administer oaths. **Except as**  
4 **provided in Sections 1 to 3 of this Act,** the commission shall have no  
5 jurisdiction in **the** absence of a complaint. A member of the commission may  
6 file a complaint.

7 (b) Within ten (10) days of the filing of a complaint, the commission shall cause a  
8 copy of the complaint to be served by certified mail upon the person alleged to  
9 have committed the violation.

10 (c) Within twenty (20) days of service of the complaint the person alleged to have  
11 committed the violation may file an answer with the commission. The filing  
12 of an answer is wholly permissive, and no inferences shall be drawn from the  
13 failure to file an answer.

14 (d) Not later than ten (10) days after the commission receives the answer, or the  
15 time expires for the filing of an answer, the commission shall initiate a  
16 preliminary inquiry into any alleged violation of this code. If the commission  
17 determines, **based upon the recommendation of the executive director that**  
18 **the preliminary inquiry demonstrates** that the complaint fails to state a claim  
19 of an ethics violation, **the commission may hold a teleconference meeting at**  
20 **which** the complaint shall be dismissed.

21 (e) Within thirty (30) days of the commencement of the inquiry, the commission  
22 shall give notice of the status of the complaint and a general statement of the  
23 applicable law to the person alleged to have committed a violation.

24 **(f) A complaint may be filed against a former legislator, a former legislative**  
25 **agent, or former employer of a legislative agent within one (1) year of the**  
26 **date he or she left office or terminated lobbying registration, if the alleged**  
27 **violation occurred within one (1) year prior to the date he or she left office**

1 or terminated lobbying registration. These limitations of one (1) year do not  
 2 apply if a complaint alleges a violation of KRS 6.757 or of Sections 1 to 3 of  
 3 this Act. The commission may consider the dates of alleged violations of  
 4 Sections 1 to 3 of this Act for purposes of determining whether conduct  
 5 constitutes discrimination, harassment, or sexual harassment as defined in  
 6 Section 2 of this Act. The applicable statutes of limitation shall not apply to  
 7 ethical misconduct under KRS 6.601 to 6.849.

8 (2) All commission proceedings, including the complaint and answer and other records  
 9 relating to a preliminary inquiry, shall be confidential until a final determination is  
 10 made by the commission, except:

11 (a) The commission may turn over to the Attorney General, the United States  
 12 Attorney, Commonwealth's attorney, or county attorney of the jurisdiction in  
 13 which the offense allegedly occurred, evidence which may be used in criminal  
 14 proceedings; ~~and~~

15 (b) If the complainant or alleged violator publicly discloses the existence of a  
 16 preliminary inquiry, the commission may publicly confirm the existence of the  
 17 inquiry and, in its discretion, make public any documents which were issued  
 18 to either party; and

19 (c) If the complainant publicly discloses or comments on the complaint or  
 20 preliminary inquiry, the commission may dismiss the complaint without  
 21 prejudice during a meeting via teleconference.

22 (3) The commission shall afford a person who is the subject of a preliminary inquiry an  
 23 opportunity to appear in response to the allegations in the complaint. The person  
 24 shall have the right to be represented by counsel, to appear and be heard under oath,  
 25 and to offer evidence in response to the allegations in the complaint.

26 (4) If the commission determines by the answer or in the preliminary inquiry that the  
 27 complaint does not allege facts sufficient to constitute a violation of this code, the

1 commission shall immediately terminate the matter and notify in writing the  
2 complainant and the person alleged to have committed a violation. The commission  
3 may confidentially inform the alleged violator of potential violations and provide  
4 information to ensure future compliance with the law. If the alleged violator  
5 publicly discloses the existence of such action by the commission, the commission  
6 may confirm the existence of the action and, in its discretion, make public any  
7 documents that were issued to the alleged violator.

8 (5) If the commission, during the course of the preliminary inquiry, finds probable  
9 cause to believe that a violation of this code has occurred, the commission shall  
10 notify the alleged violator of the finding, and the commission may, upon majority  
11 vote:

12 (a) Due to mitigating circumstances such as lack of significant economic  
13 advantage or gain by the alleged violator, lack of significant economic loss to  
14 the state, or lack of significant impact on public confidence in government,  
15 confidentially reprimand, in writing, the alleged violator for potential  
16 violations of the law and provide a copy of the reprimand to the presiding  
17 officer of the house in which the alleged violator serves, or the alleged  
18 violator's employer, if the alleged violator is a legislative agent. The  
19 proceedings leading to a confidential reprimand and the reprimand itself shall  
20 remain confidential except that, if the alleged violator publicly discloses the  
21 existence of such an action, the commission may confirm the existence of the  
22 action and, in its discretion, make public any documents which were issued to  
23 the alleged violator; or

24 (b) Initiate an adjudicatory proceeding to determine whether there has been a  
25 violation.

26 (6) Any person who knowingly files with the commission a false complaint of  
27 misconduct on the part of any legislator or other person shall be guilty of a Class A

1 misdemeanor.

2 ➔Section 7. KRS 6.701 is amended to read as follows:

3 (1) The commission shall establish and supervise a program of ethics education and  
4 training, including~~[,]~~ but not limited to:~~[,]~~

5 (a) Preparing and publishing an ethics education manual;~~[,]~~

6 (b) Designing and supervising orientation courses for new legislators;~~[,]~~ and

7 (c) Designing and supervising current issues seminars for legislators, and  
8 employees of the legislative branch of state government.

9 (2) The commission shall establish, supervise, and conduct a program of ethics  
10 education and training designed specifically for and made available to legislative  
11 agents.

12 ➔Section 8. KRS 6.716 is amended to read as follows:

13 (1) The commission shall design the general curriculum of a current issues seminar,  
14 which shall include, but not be limited to, discussion of changes in the ethics laws  
15 and administrative regulations, new advisory opinions, current ethical issues  
16 confronting public servants, practical application of ethics laws and principles to  
17 specific issues and situations, and development of problem-solving skills. The  
18 commission shall prepare the methods and materials necessary to implement the  
19 curriculum.

20 (2) The commission shall:

21 (a) Administer the current issues seminars for legislators and employees of the  
22 legislative branch of state government;

23 (b) Designate instructors to conduct their current issues courses who shall be  
24 trained by the commission; and

25 (c) Notify legislators regarding attendance in these seminars.

26 (3) The current issues seminars for legislators shall be conducted in January of each  
27 year. Each course shall be at least two (2)~~three (3)~~ hours in length and shall be

1 designed for approval by the Kentucky Bar Association for continuing legal  
2 education ~~[ethics]~~ credits which the bar association may require.

3 (4) To facilitate participant interaction, those portions of the seminars dedicated to  
4 group participation may be closed to the public.

5 (5) Each legislator, after completion of an orientation training course, shall complete  
6 one (1) current issues seminar annually.

7 ➔Section 9. KRS 6.787 is amended to read as follows:

8 (1) The statement of financial interests required by KRS 6.781 shall be filed on a form  
9 prescribed by the commission. The commission shall provide copies of the form  
10 without charge to any person required to file.

11 (2) The statement shall include the following information for the preceding calendar  
12 year:

13 (a) Name, business address, business telephone number, and home address of the  
14 filer;

15 (b) Title of the filer's public position or office sought;

16 (c) Any other occupations of filer and spouse;

17 (d) Positions held by the filer or his or her spouse in any business, partnership,  
18 corporation for profit, or corporation not for profit from which the filer  
19 receives compensation, and the name of that business, partnership, or  
20 corporation;

21 (e) Names and addresses of all businesses, investments, or securities in which the  
22 filer, his or her spouse, or children has or had at any time during the preceding  
23 year an interest of ten thousand dollars (\$10,000) at fair market value or five  
24 percent (5%) ownership interest or more;

25 (f) Sources of gross income of the filer and his or her spouse, information  
26 concerning the source, and the form of the income;

27 (g) All positions of a fiduciary nature in a business;

- 1 (h) A designation as commercial, residential, or rural, and the location of all real  
2 property, other than the filer's primary residence, in which there is an interest  
3 of ten thousand dollars (\$10,000) or more held by the filer, his **or her** spouse,  
4 or children;
- 5 (i) Sources of gifts of money or property with a retail value of more than two  
6 hundred dollars (\$200) to the filer or the filer's immediate family, except those  
7 from a member of the filer's family;
- 8 (j) **Information regarding all out-of-state travel associated with the**  
9 **performance of legislative duties, including the dates of each trip, travel**  
10 **destination, the name of any person or organization who paid for**  
11 **transportation, food, lodging, or other travel expenses, and the value of the**  
12 **travel expenses paid by each person or organization;**
- 13 (k) The name of any creditor owed more than ten thousand dollars (\$10,000),  
14 except debts arising from the purchase of consumer goods. As used in this  
15 paragraph, the term "consumer goods" has the same meaning as in KRS  
16 355.9-102;
- 17 ~~(l)~~(k) The name of any legislative agent who is:
- 18 1. A member of the filer's immediate family;
- 19 2. A partner of the filer, or a partner of a member of the filer's immediate  
20 family;
- 21 3. An officer or director of the filer's employer;
- 22 4. An employer of the filer or an employer of a member of the filer's  
23 immediate family; or
- 24 5. A business associate of the filer or a business associate of a member of  
25 the filer's immediate family;
- 26 (m)~~(l)~~ The names of any of the filer's clients who are legislative agents or  
27 employers; and

- 1        ~~(n)~~~~(m)~~ An answer to the question, "If you have held a professional license  
2                    during the filing period, has a properly licensed partner of yours engaged in  
3                    the practice of cases or other matters which you are prohibited from practicing  
4                    under KRS 6.744?" If the filer responds affirmatively, he shall also list the  
5                    names of the clients represented and list the agencies before which the partner  
6                    made an appearance. These lists shall be separate and need not identify which  
7                    client was represented before a specific agency.
- 8        (3) Paragraphs (a) to ~~(k)~~~~(j)~~ of subsection (2) of this section shall not require disclosure  
9                    of specific dollar amounts. Paragraph (f) shall not require the disclosure of the  
10                   names of clients or customers of business entities listed as sources of income.