

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 intentionally engage in discrimination, harassment, or*  
7 *sexual harassment of any legislator, legislative agent, or employee of the*  
8 *legislative 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 and 2 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 any person, or the aiding,*  
17 *abetting, inciting, coercing, or compelling that is unlawful under KRS Chapter*  
18 *344;*

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

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

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

27 *2. Submission to or rejection of the advances, requests, conduct, or*

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

10           (b) "Sexual harassment" includes such conduct or communication as:

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

4           ➔SECTION 3. 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 4. KRS 6.686 is amended to read as follows:

- 10       (1) (a) The commission shall have jurisdiction to investigate and proceed as to any  
11           violation of this code upon the filing of a complaint. The complaint shall be a  
12           written statement alleging a violation against one (1) or more named persons  
13           and stating the essential facts constituting the violation charged. The  
14           complaint shall be made under oath and signed by the complaining party  
15           before a person who is legally empowered to administer oaths. The  
16           commission shall have no jurisdiction in the absence of a complaint. A  
17           member of the commission may file a complaint.
- 18       (b) Within ten (10) days of the filing of a complaint, the commission shall cause a  
19           copy of the complaint to be served by certified mail upon the person alleged to  
20           have committed the violation.
- 21       (c) Within twenty (20) days of service of the complaint the person alleged to have  
22           committed the violation may file an answer with the commission. The filing  
23           of an answer is wholly permissive, and no inferences shall be drawn from the  
24           failure to file an answer.
- 25       (d) Not later than ten (10) days after the commission receives the answer, or the  
26           time expires for the filing of an answer, the commission shall initiate a  
27           preliminary inquiry into any alleged violation of this code. If the commission

1 determines upon the affirmative vote of at least five (5) members, at either a  
2 regularly scheduled meeting, or a teleconference meeting called upon the  
3 chair's oral or written notice to all members of the Commission, that the  
4 complaint fails to state a claim of an ethics violation, the complaint shall be  
5 dismissed.

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

9 (f) A complaint may be filed against a former legislator, a former legislative  
10 agent, or a former employer of a legislative agent within one (1) year of the  
11 date he or she left office or terminated lobbying registration, if the alleged  
12 violation occurred within one (1) year prior to the date he or she left office  
13 or terminated lobbying registration. These limitations of one (1) year shall  
14 not apply if a complaint alleges a violation of KRS 6.757.

15 (g) The applicable statutes of limitation shall not apply to ethical misconduct  
16 under KRS 6.601 to 6.849.

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

20 (a) The commission may turn over to the Attorney General, the United States  
21 Attorney, Commonwealth's attorney, or county attorney of the jurisdiction in  
22 which the offense allegedly occurred, evidence which may be used in criminal  
23 proceedings; and

24 (b) If the complainant or alleged violator publicly discloses the existence of a  
25 preliminary inquiry, the commission may publicly confirm the existence of the  
26 inquiry and, in its discretion, make public any documents which were issued  
27 to either party.

- 1 (3) The commission shall afford a person who is the subject of a preliminary inquiry an  
2 opportunity to appear in response to the allegations in the complaint. The person  
3 shall have the right to be represented by counsel, to appear and be heard under oath,  
4 and to offer evidence in response to the allegations in the complaint.
- 5 (4) If the commission determines by the answer or in the preliminary inquiry that the  
6 complaint does not allege facts sufficient to constitute a violation of this code, the  
7 commission shall immediately terminate the matter and notify in writing the  
8 complainant and the person alleged to have committed a violation. The commission  
9 may confidentially inform the alleged violator of potential violations and provide  
10 information to ensure future compliance with the law. If the alleged violator  
11 publicly discloses the existence of such action by the commission, the commission  
12 may confirm the existence of the action and, in its discretion, make public any  
13 documents that were issued to the alleged violator.
- 14 (5) If the commission, during the course of the preliminary inquiry, finds probable  
15 cause to believe that a violation of this code has occurred, the commission shall  
16 notify the alleged violator of the finding, and the commission may, upon majority  
17 vote:
- 18 (a) Due to mitigating circumstances such as lack of significant economic  
19 advantage or gain by the alleged violator, lack of significant economic loss to  
20 the state, or lack of significant impact on public confidence in government,  
21 confidentially reprimand, in writing, the alleged violator for potential  
22 violations of the law and provide a copy of the reprimand to the presiding  
23 officer of the house in which the alleged violator serves, or the alleged  
24 violator's employer, if the alleged violator is a legislative agent. The  
25 proceedings leading to a confidential reprimand and the reprimand itself shall  
26 remain confidential except that, if the alleged violator publicly discloses the  
27 existence of such an action, the commission may confirm the existence of the

1 action and, in its discretion, make public any documents which were issued to  
2 the alleged violator; or

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

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

8 ➔Section 5. KRS 6.701 is amended to read as follows:

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

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

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

13 (c) Designing and supervising current issues seminars for legislators **and**  
14 **employees of the legislative branch of state government.**

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

18 ➔Section 6. KRS 6.711 is amended to read as follows:

19 (1) The commission shall design the general curriculum of orientation courses, which  
20 shall include but not be limited to explanations and discussions of the ethics laws,  
21 administrative regulations, relevant internal policies, specific technical and legal  
22 requirements, summaries of advisory opinions, underlying purposes and principles  
23 of ethics laws, examples of practical application of the laws and principles, and a  
24 question-and-answer participatory segment regarding common problems and  
25 situations. The commission shall prepare the methods and materials necessary to  
26 implement the curriculum.

27 (2) The commission shall:

- 1 (a) Administer the orientation courses for legislators;
- 2 (b) Designate instructors to conduct their courses who shall be trained by the
- 3 commission; and
- 4 (c) Notify legislators regarding attendance in these courses.
- 5 (3) The orientation courses shall be conducted for new legislators in December of each
- 6 even-numbered year. Each course shall be at least two (2) hours in length and shall
- 7 be designed for approval by the Kentucky Bar Association for continuing legal
- 8 education[~~ethics~~] credits which the bar association may require.
- 9 (4) To facilitate participant interaction, those portions of the courses dedicated to group
- 10 participation may be closed to the public.
- 11 (5) Each legislator shall complete the initial orientation course offered under this
- 12 section. Each legislator elected after the initial orientation course shall complete the
- 13 next orientation course conducted. The commission may grant permission for a
- 14 legislator to attend a later course for good cause shown.
- 15 ➔Section 7. KRS 6.716 is amended to read as follows:
- 16 (1) The commission shall design the general curriculum of a current issues seminar,
- 17 which shall include, but not be limited to, discussion of changes in the ethics laws
- 18 and administrative regulations, new advisory opinions, current ethical issues
- 19 confronting public servants, practical application of ethics laws and principles to
- 20 specific issues and situations, and development of problem-solving skills. The
- 21 commission shall prepare the methods and materials necessary to implement the
- 22 curriculum.
- 23 (2) The commission shall:
- 24 (a) Administer the current issues seminars for legislators **and training for**
- 25 **employees of the legislative branch of state government;**
- 26 (b) Designate instructors to conduct their current issues courses who shall be
- 27 trained by the commission; and

- 1 (c) Notify legislators regarding attendance in these seminars.
- 2 (3) The current issues seminars ***for legislators*** shall be conducted in January of each  
3 year. Each course shall be at least ***two (2)***~~three (3)~~ hours in length and shall be  
4 designed for approval by the Kentucky Bar Association for continuing legal  
5 education ethics credits which the bar association may require.
- 6 (4) To facilitate participant interaction, those portions of the seminars dedicated to  
7 group participation may be closed to the public.
- 8 (5) Each legislator, after completion of an orientation training course, shall complete  
9 one (1) current issues seminar annually.

10 ➔Section 8. KRS 7.101 is amended to read as follows:

11 The Legislative Research Commission shall require all members of the General Assembly  
12 to attend a sexual and workplace harassment training course to be held at the beginning of  
13 each session of the General Assembly. ***The Legislative Research Commission shall***  
14 ***coordinate the development and presentation of the training course, with the assistance***  
15 ***of the Legislative Ethics Commission.***